

FINAL ENVIRONMENTAL IMPACT REPORT

**San Diego County General Plan Update
DPLU Environmental Log No. 02-ZA-001
State Clearinghouse (SCH) #2002111067**

**COMMENT LETTERS AND RESPONSES
TO COMMENTS ON THE DRAFT EIR**

TRIBES

Lead Agency:

**County of San Diego
Department of Planning and Land Use
5201 Ruffin Road, Suite B
San Diego, CA 92123
Contact: Devon Muto, Chief of Advanced Planning**

August 2011

List of Commenters – Tribes

Letter	Commenter
T 1	Barona Band of Mission Indians (Represented by the Law Office of Art Bunce)
T 2	Campo Band of Mission (Kumeyaay) Indians
T 3	Kwaaymii Laguna Band of Indians (Represented by Courtney Ann Coyle)
T 4	Pechenga Band of Luiseño Indians (Represented by Tomaras & Ogas, LLP)
T 5	San Luis Rey Band of Luiseño Mission Indians (Represented by California Indian Legal Services)
T 6	Sycuan Band of Kumeyaay Nation

Comment Letter T 1, Barona Band of Mission Indians represented by Law Office of Art Bunce

LAW OFFICES OF ART BUNCE

**ART BUNCE
KATHRYN CLENNEY**
ATTORNEYS AT LAW

August 5, 2009

Devon Muto, Chief
Department of Planning & Land Use
County of San Diego
5201 Ruffin Road, Suite B
San Diego, CA 92123

Re: Comments of Barona Band of Mission Indians on
Proposed General Plan Update and draft Environmental
Impact Report on proposed General Plan Update

Dear Mr. or Ms. Muto,

In response to your notice dated July 1, 2009 to Interested Agencies and Individuals, I am submitting the comments of the Barona Band of Mission Indians (the "Tribe"), for which I serve as general legal counsel.

The statements

Section 2.9 of the draft EIR includes a subsection on the Lakeside Community Planning Area, beginning on p. 2.9-9. At the end of this subsection, on p. 2.9-10, the following statement appears:

The Barona Indian Reservation located to the north of the Lakeside CPA has a significant effect on land use and community character. The reservation has built a large casino, hotel, and golf course. The resulting demand for water has depleted reserves in aquifers shared with local residents.

Appendix D to the General Plan Update is a Groundwater Study. Its cover page says that it was prepared by your department. The list of preparers and technical reviewers includes Jim Bennett, Gary Ross, Robert Flamenbaum, Kevin Heaton, Murray Wunderly, Doug Roff, Jay Jones, John Peterson, and Matt Wiedlin.

The text of Sections 2.9-3.5 of the Groundwater Study include the following statements:

T1-1.

Comment Letter T 1, Barona Band of Mission Indians represented by Law Office of Art Bunce (cont.)

T1-1.
cont.

Barona Indian Reservation. Greater than 500 acre-feet of groundwater per year is pumped for a golf course, casino, and hotel. The amount of groundwater pumped exceeds the sustainable yield of its basin . . . [p. 31, §2.9.1.]

The basin boundaries were redrawn to exclude such [Indian reservation] land with the assumption that each Reservation could potentially utilize groundwater beneath its land for future uses. . . . The only exception is for cases where a given Indian Reservation has been documented to exceed its sustainable yield to the potential detriment of off-Reservation groundwater users. The Barona Indian Reservation exceeds the sustainable yield of its basin . . . Since the Reservation is known to be exceeding its sustainable yield . . . As shown in table 3-9, the Barona Indian Reservation is estimated to use greater than 500 acre-feet of groundwater per year for its golf course, casino, and hotel. [p. 42, §3.1.2.3.]

[The Barona Indian Reservation] was also included as having potential for localized groundwater problems due to greater than 500 acre-feet of groundwater per year being pumped, which exceeds the sustainable yield of its basin. [p. 47, §3.2.2.]

Under existing conditions, the following basins were identified as having groundwater storage reduced to a level of 50% or less of maximum storage in at least one month during the 34-year period analyzed (minimum calculated groundwater in storage are shown in parenthesis): . . .

Barona (32%): . . . Of the estimated existing demand of 645 afy, approximately 557 afy is estimated to be pumped from the Barona Indian Reservation. The amount of groundwater pumped by the Barona Reservation exceeds the sustainable yield of its basin . . . [p. 50, §3.5.1.1.2.]

Attached to Appendix D are three figures with the following titles:

- | | |
|----------------|---|
| 1. Figure 3.8 | Regional Long-Term Groundwater Availability |
| 2. Figure 3.9 | Potential Impacts from Large Quantity/Clustered Groundwater Users |
| 3. Figure 3-10 | Potential for Low Well Yield |

Comment Letter T 1, Barona Band of Mission Indians represented by Law Office of Art Bunce (cont.)

T1-1.
cont. Figure 3.8. shows the Barona Indian Reservation as a blank, but adjacent to a largely uninhabited area depicted in orange, meaning 25-50% groundwater in storage. Figure 3.9. depicts the Barona Indian Reservation in red as “potential for localized groundwater problems.” Figure 3.10. depicts the Barona Indian Reservation and an adjacent area, largely including the area known as Old Barona Road, as “potential for Low Well Yield”. Although several well locations are shown on the Reservation, no well locations are shown in the Old Barona Road area.

The methodology

Although scattered at several points, the text of the Groundwater Study does describe the methodology used to make the above statements, and others. For example:

Estimating the rate of groundwater recharge, the available storage capacity, and the rate of groundwater consumption. . . . The groundwater demand and groundwater storage capacity were then estimated for each basin. [p. 35, §3.1.2.]

In order to estimate long-term groundwater availability over the study area, the recharge equations were first programmed into computer code that was integrated into GIS software. Groundwater demand for each of the seven land use scenarios was input into GIS, and groundwater in storage was also input. The computer code and GIS tools were used to calculate inflow to groundwater storage and outflow from groundwater storage on a month-by-month basis for each of the 86 basins in the study area over a 34-year period. [p. 46, §3.1.2.5.]

The data

Barona Indian Reservation. Greater than 500 acre-feet of groundwater per year is pumped for a golf course, casino, and hotel. [p. 31, §2.9.1.2.]

Of 750 well logs reviewed . . . [p. 32, §2.9.2.]

[The Barona Indian Reservation] has been documented to exceed its sustainable yield to the potential detriment of off-Reservation groundwater users. . . . Additionally, approximately 20 off-Reservation residences along Old Barona Road have reported seriously depleted to dry wells. As shown in Table 3-9, the Barona Indian Reservation is estimated to use greater than 500 acre-feet of groundwater

Comment Letter T 1, Barona Band of Mission Indians represented by Law Office of Art Bunce (cont.)

T1-3. cont.	<p>per year for its golf course, casino, and hotel. [p. 42, §3.1.2.3.]</p> <p>While no historical groundwater data is available for Barona Indian Reservation . . . [p. 47, §3.2.2.]</p> <p>Also, there are large public tracts of land, Indian Reservations, and open space, in which no data is available. [p. 48, §3.3.2.]</p>
	<p><i>The Barona Band's comments</i></p> <p><i>Lakeside Planning Group</i></p>
T1-4.	<p>How do the authors of the part of the EIR dealing with the Lakeside Planning Group know that the Barona Band's development "has depleted reserves in aquifers shared with local residents"? Their statement is that there is a cause-and-effect relationship, but they offer no evidence in support of this statement. They provide no analysis or data to support this conclusion, which could just as well be due to other factors, such as dense clustering of many wells on lots much smaller than 4 acres. They also assume that the activities of the Barona Band and the lots of the local residents are in the same basin. However, the two areas are hydrologically distinct, and separated by several hundred feet in elevation. The assumption of a hydrologic connection is baseless.</p>
T1-5.	<p><i>Groundwater Study</i></p> <p>On what basis do the authors of the Groundwater Study make any of the above quoted statements? Where is their data? They twice state that no direct data are available, and yet they draw conclusions, based on "estimates" based on data from elsewhere, if anywhere.</p>
T1-6.	<p>Exactly how do they know that over 500 acre-feet of groundwater are pumped each year by the Barona Band? Where are the data? Do the authors take into account the fact that seldom is a drop of groundwater ever used to irrigate the golf course, which is irrigated almost entirely by reclaimed water from the wastewater treatment plant for which the Barona Band has won an award? Do the authors calculate the reduction in use of even reclaimed water due to a significant recent reduction in the area of turf on the golf course?</p>
T1-7.	<p>Where are the documents that show that "the Barona Indian Reservation exceeds the sustainable yield of its basin"? What are these documents? What are the locations of the 750 confidential well logs viewed? Were any on or near the Barona Indian Reservation?</p>
T1-8.	<p>How do the authors document a hydrologic connection between the Barona Band's activities in its valley and the separate sub-basin or micro-basin in which the</p>

Comment Letter T 1, Barona Band of Mission Indians represented by Law Office of Art Bunce (cont.)

T1-8. cont. supposedly affected neighbors reside? At §3.1.2.1. the authors divide the Descanso and Guatay basins, but they do not even consider whether the basin in which the Barona Band conducts many of its activities should similarly be separated from the sub-basin or micro-basin of the supposedly affected neighbors.

T1-9. Exactly how do the authors determine that the current existing demand for groundwater in the subbasin in question is 645 acre-feet per year? How do they similarly estimate pumping at 557 acre-feet per year? Where are the data? How are the calculations performed? How reliable are the data?

T1-10. Why does Figure 3-10 supposedly show the locations of several wells on the Barona Indian Reservation, while ignoring the many more wells in the adjacent area known as Old Barona Road? The figure identifies both areas as having a “potential for low well yield,” yet only on-Reservation wells are indicated.

General Comments

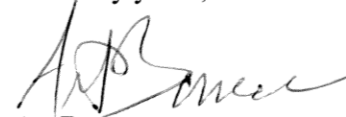
T1-11. In its Land Use section, the draft EIR disclaims any land use jurisdiction over federal Indian reservations, and the accompanying maps properly leave them blank or simply designated as “Tribal Lands.” (e.g., Figure 3.1) At p. 2.9-43, the draft EIR states “On such lands, the County of San Diego has no jurisdiction over specific activities and/or land uses.”

And yet the Groundwater Study does not do the same. Instead, it treats the lands of the Barona Indian Reservation as if they were subject to analysis, control, and jurisdiction of San Diego County. There is no greater justification for including or even considering the lands of a federal Indian reservation in the groundwater section of the County’s General Plan update than there is for including or even considering those same lands in the land use section.

T1-12. The draft EIR should not consider or analyze the lands of the Barona Indian Reservation for any purpose, whether that purpose be groundwater, land use, noise, aesthetics, etc.

Please consider, incorporate, and respond to these comments in the final EIR, and General Plan Update.

Sincerely yours,



Art Bunce
Tribal Attorney

cc: Edwin Romero, Chairman

Responses to Letter T 1, Barona Band of Mission Indians represented by Law Office of Art Bunce

- T1-1 The introductory remarks in this letter make reference to sections of the DEIR and Groundwater Study in which the Barona Indian Reservation is discussed. The comment accurately reflects the documents' content with the exception of the discussion regarding Figure 3.10 of the Groundwater Study. Figure 3.10 does not depict the Barona Indian Reservation as having the potential for low well yield nor does it depict any well locations on the Barona Indian Reservation since the County has no records of well locations on the Reservation. The map does depict 31 wells along Old Barona Road and Wildcat Canyon Road area. In addition, the County has removed Barona Reservation from the list of high quantity/clustered groundwater users as discussed in Section 2.9.1, Section 3.2.2, Section 3.5.2, and shown on Figure 3-9 of the Groundwater Study.
- T1-2 Issues raised in the comment make reference to the methodology used in the Groundwater Study. No response is required.
- T1-3 This comment cites some of the data described in the Groundwater Study. No response is required.
- T1-4 The comment questions the conclusion that the Barona Band's development has depleted reserves in aquifers shared with local residents. The DEIR was revised in Section 2.9.1.2 to clarify that the Barona Indian Reservation has depleted reserves in its on-reservation basin. Section 2.9.1.2 of the DEIR was further revised to state that no data is available to definitively determine whether the depleted and dry wells along Old Barona Road were impacted by reservation groundwater pumping. The revised text lists other potential causal factors including lack of recharge from drought conditions, clustered wells on small residential parcels, and low storage capacity of the aquifer. The Groundwater Study was also revised in Section 2.73, Section 3.1.2.3, and Section 3.5.1.1 to make the same clarifying remarks.
- T1-5 A 34-year water balance was conducted for the Barona Basin in which the methodology and data gathering is described on pages 35 to 46 of DEIR Appendix D: Groundwater Study. Groundwater recharge was calculated for the Barona Basin including the Reservation using the same methodologies as all other basins in the study area. The precipitation, evapotranspiration, runoff, and soil moisture capacities of soils were compiled to calculate groundwater recharge over a 34-year period. The amount of groundwater in storage for the basin was estimated based on a review of geologic maps for the basin and a review of off-Reservation well logs. How groundwater demand was estimated for Barona Reservation is discussed in detail within the next response below.
- T1-6 Since the County does not have access to any Barona Indian Reservation information regarding the amount of actual groundwater demand, the County estimated groundwater demand from land uses and other information documented within the following sources: Second Environmental Evaluation of Off-Reservation Effects of Barona Casino Resort Expansion Project by Ninyo & Moore dated December 2000; the Report on the Need for Emergency Water Supply prepared for the Barona Tribal Water Authority by Civiltec Engineering, Inc. dated May 28, 2002;

Responses to Letter T 1, Barona Band of Mission Indians represented by Law Office of Art Bunce (cont.)

and SANDAG data available for number of housing units on Barona Indian Reservation. Table T1-6 below is a comparison of what the County estimated as groundwater demand and what the tribal document estimated as projected groundwater demand in 2002:

Table T1-6: Comparison of County- and Tribal-Projected Groundwater Demand (2002)

	2002 Report Projected Water Demand (acre-ft / year)	County Estimate for Study (acre-ft / year)
Potable Water – Residences	94	81
Potable Water – Casino & Hotel	401	306
Non-Potable – Irrigation	604	438
Total Water Demand	1,099	825
Reclaimed Water	-268	-268
Total Water Demand After Consideration of Reclaimed Water	831	557

The numbers as documented within the 2002 Civiltec Engineering, Inc. report are higher than those estimated by the County. It was considered in 2002 by County staff that the numbers reported may have been an overestimation of groundwater demand. If the information used within the report is not reflective of current or projected groundwater consumption at the Barona Indian Reservation, the County would appreciate updated substantiated groundwater consumption data for utilization in this study. It should be noted that the County did not include the recent reduction of turf on the golf course in its calculations since this change occurred in 2009. The County information is based on information that was available in or around April 2008, which is when the Notice of Preparation (NOP) was circulated for public review. This is consistent with Section 15125 of the CEQA Guidelines, which states, “an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the NOP is published.”

By revising the water demand to include reductions of about 12 acres of turf in 2009, the conclusions for the Barona basin’s cumulative groundwater impacts would still remain significant and unavoidable.

- T1-7 The General Plan Update Groundwater Study has been revised in Section 2.4 to include additional information to clarify the statement that the Reservation exceeds its sustainable yield. The report was updated with information from the *Report on the Need for Emergency Water Supply* prepared for the Barona Tribal Water Authority by Civiltec Engineering, Inc. dated May 28, 2002. In regard to the 750 confidential well logs, the locations are shown on Figure 3-10. The County has no records from wells on the Reservation. The closest off-Reservation well log information was from wells along Old Barona Road and Wildcat Canyon Road.
- T1-8 The General Plan Update Groundwater Study did not document a hydrologic connection, nor a disconnection, between the Barona Band’s activities and off-Reservation groundwater users. The basin was not divided into separate sub-basins

Responses to Letter T 1, Barona Band of Mission Indians represented by Law Office of Art Bunce (cont.)

- or micro-basins within the study because the County conservatively considers the basin to be connected in order to aid in future planning of development within County jurisdiction within the Barona hydrologic sub-area. The General Plan Update Groundwater Study has been revised in Section 2.73, Section 3.1.2.3, and Section 3.5.1.1 to clarify that it is unknown whether there has been well interference from Barona Indian Reservation pumping to off-Reservation residences due to lack of data available to make such a correlation.
- T1-9 The County's approach in estimating the Reservation's existing groundwater demand is discussed in response to comment T1-6 above. The existing off-Reservation groundwater demand was estimated based on methodology described within the Section 3.1.2.3 of the General Plan Update Groundwater Study.
- T1-10 Figure 3.10 does not depict the Barona Indian Reservation as having the potential for low well yield nor does it depict any well locations on the Barona Indian Reservation since the County has no records of well locations on the Reservation. The map does depict 31 wells along the Old Barona Road and Wildcat Canyon Road area. See also response to comment T1-1 above.
- T1-11 The County respectfully disagrees that the General Plan Update Groundwater Study treats lands of the Barona Indian Reservation as if they were subject to control and jurisdiction of San Diego County. Section 3.1.2.3 of the Groundwater Study describes that basin boundaries were redrawn to exclude Indian Reservation lands from analysis in recognition of tribal rights to groundwater beneath those lands. The only exception was in cases where a given Indian Reservation exceeds its sustainable yield to the potential detriment of off-Reservation groundwater users. Including tribal lands that exceed their sustainable yield in the groundwater study allows for the County to plan for a potential reduction of future development of lands under County jurisdiction adjacent to such tribal lands based on overdraft conditions of the groundwater resources. The County conservatively considered the entire Barona hydrologic sub-area to be connected for purposes of planning new development. Since the Barona Reservation exceeds its sustainable yield, this impact must be considered in future off-Reservation groundwater dependent development in the Barona hydrologic sub-area.
- T1-12 The groundwater study included the Barona Indian Reservation in its analysis to take into consideration groundwater impacts on future off-Reservation groundwater-dependent development. Such analysis in no way infringes upon the tribal groundwater rights of the Barona Indian Reservation.

Comment Letter T 2, Campo Band of Mission (Kumeyaay) Indians



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August 31, 2009

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- T2-1. On behalf of the Campo Band of Mission (Kumeyaay) Indians I would like to make the following comments regarding the General Plan, Boulevard Subregion Plan and the EIR draft. Although these comments are separated by document, because of their interrelated nature they should all be considered as comments for the General Plan and the Draft EIR.
- T2-2. **General Plan Comments:**
The Campo Indian Reservation is included in the bounds for the Boulevard and Campo Planning subregions, though the Reservation is not subject to the County General Plan. In area, the Campo Indian Reservation is over 1/3 of the total lands within the Boulevard subregion. In addition, the Campo Band of Kumeyaay owns over 100 acres of private property in the Boulevard Planning subregion.
- T2-3. Indian tribes in total represent over 20% of the potentially developable lands of eastern San Diego County. Our fortunes, and those of the surrounding communities are intertwined. Yet the formal use of government to government consultation just does not occur in San Diego County. How can this represent good planning? It is a question that becomes plainly evident when political posturing occurs regarding drafts on the water table, traffic issues, sewage or law enforcement. Yet the opportunities to address these issues are readily available. Within the law enforcement and fire protection arenas many advances have been realized in recent years. It only requires the political will.
- T2-4. Pg 33 Most of San Diego County was under Indian rule at the end of the Mexican American war.
- T2-5. Pg 74 Goal LU-1 -- It is well known that tribes have the need for future expansion, particularly for parcels within the Reservations, adjacent or needed for jurisdictional integrity. This is neither acknowledged nor addressed.
- T2-6. Pg 76 Goal LU-2 -- The flaws of utilizing Planning Group documents as highlighted in our comments on the Boulevard plan show how the General document has significant and substantive flaws.

Comment Letter T 2, Campo Band of Mission (Kumeyaay) Indians (cont.)

- T2-7. Pg 76 Goal LU 2.6 – Economic viability cannot be address properly without assessing the impacts of downzoning and including tribal economies and buildouts in the plans and projections.
- T2-8. **Goal LU-4 Interjurisdictional Coordination**
If tribal communities are not included in this category then it is not being addressed. The Campo community has provided extensive information regarding industrial and commercial zones and future build outs. Campo commercial development is mentioned by the subregional plans in the context of complaints, yet the General Plan does not include those same industries in the context of future planning.
- T2-9. **Pg 81 Goal LU-8 Aquifers and Groundwater Conservation**
The interrelationship between unregulated agricultural use of groundwater and overall groundwater use regulation is ignored. The application of a requirement for protecting groundwater dependent habitat should also look at future build out on the Reservations before establishing these zones.
- T2-10. **EIR**
As we have said in previous discussions with County staff and in submittals we have made in the past, there is not adequate consideration of the land use plans of tribal communities in the long term County planning. In particular, the following topics are underevaluated:
1. Water quantity – equitable application of the groundwater quantification model.
 2. Water quality- Acquiring true data on rural water quality and ensuring that there is access to distribution systems if climate change pushes groundwater into non-compliance with the Safe Drinking Water Act.
 3. Economic impacts of downzoning- There is no economic quantification of impacts.
 4. Property development rights- If property development rights become a commodity, they should be kept within the rural zones they are created. Otherwise, we will lose a great deal of economic viability to outside communities.
- T2-11. Simply asking tribes to comment on the General Plan is much different than seeking to incorporate build out, compatible uses and future needs from tribal planning into the county planning process. Yet, without that kind of coordination the plan is seriously flawed for the rural areas of the county and an adequate EIR is impossible.

Comment Letter T 2, Campo Band of Mission (Kumeyaay) Indians (cont.)

More EIR comments

T2-12. Table 1-12 is missing many significant projects proposed and documented for the Campo Indian Reservation. More importantly, the fact that industrial and commercial zones exist on the tribal lands is completely unacknowledged.

Aesthetics -- 2.1

T2-13. Many of the scenic vistas designated in this section occur over tribal lands. Without the concurrence of those tribes it is confrontational and meaningless to declare the view over tribal lands as a component of County planning. Tribal lands include Viejas, Cuyapaipa, Santa Ysabel, Mesa Grande.

Dark Skies 2.1.1.4 & 2.1.4.4

T2-14. Both Palomar and Mount Laguna Observatories need dark skies for their operations. Yet the placement and operation of these facilities was done with no analysis of the long term impacts to tribal economies from their restrictions. This current EIR continues the same, without regard to Reservation or off-Reservation cost analysis.

If the activities on the Reservations are going to be mentioned with regard to county planning regarding light or glare, then negotiations should be undertaken with the tribes to see if they are willing to comply with the new standards. Simply passing standards and then complaining when tribes don't roll over and comply is wrong, poor planning and confrontational.

Agriculture Pg 17/51

T2-15. The unrestricted use of groundwater for agricultural purposes is not evaluated. The potential for direct impacts to tribal communities is not quantified. In fact, the report dismisses a clear threat to Reservation groundwater supply with the following quote: *"Land use activities on State and federal lands, military installations, and tribal lands are outside the jurisdiction of the County of San Diego and would not be impacted by implementation of the proposed project."*

2.1 page 20 Boulevard

T2-16. The Golden Acorn casino is mentioned as a commercial development outside the community character of small rural business. Since the Golden Acorn Casino is mentioned in the County planning document, it should be acknowledged that the area near the freeway has been designated for commercial development since 1978 and is considered to be fully in compliance with the community character of the Reservation. If the EIR is going to incorporate references to tribal activities it must include the planning of the tribes

Comment Letter T 2, Campo Band of Mission (Kumeyaay) Indians (cont.)

- 2.1.4.2 Issue 2 Scenic Resources**
- T2-17. The claim of the view of over the La Jolla Reservation is confrontational and false. The view over the Reservation is the property of the Reservation unless the County is willing to subject itself to the decisions of the tribe as to what is an acceptable view over the off-Reservation lands. This type of hypocrisy is poor planning and only exacerbates the distrust on many Reservations of the County process. Campo has consistently made its position known that the view over the Reservation is under the aesthetic standards of the Reservation. Comments are welcome, but the final decision is the tribes.
- T2-18. **2.3.4.3** The example of Jacumba Valley Ranch as a source of increase emissions fails to account for the existing commutes of hundreds of local employees at the Golden Acorn Casino, Border Patrol and School District. The Jacumba Valley Ranch may, in fact, result in a net reduction.
- T2-19. **Air Quality General** – The section fails to acknowledge the fact that the 18 Reservations in San Diego County have the potential to designate their lands as Class 1 areas and what the potential impacts to the County regulatory program would result from such a designation.
- T2-20. **2.4.3** The assumption that wildlife cannot coexist with human activity is contrary to the beliefs and demonstrations of the Kumeyaay people. In fact, the lack of human activity is alien to the San Diego County ecosystems which have benefited from the synergy of human activity for thousands of years. Only in the last century has that synergy been altered. Cattle grazing and agriculture are radical transformations that should not be considered compatible with the “natural” environment.
- T2-21. **Biology pg 27/55** The Army Corp does not protect riparian areas from cattle, which can rapidly denude and desertify riparian ecosystems. This fact is ignored in the biological assessment.
- T2-22. **Cultural resources pg 7/49 Native American Perspective**
It is not only the Native Americans of the region who believe in continuity of descent from the earliest County inhabitants. Many archeologists and anthropologists also recognize that the most probable descendents of the earlier cultures in the County are the later cultures who absorbed and intermarried with the earlier peoples.
- T2-23. **Hydrogeology pg 3/93** It is interesting that Barona Reservation is singled out as an excessive user, ostensibly because it is not under County regulations. Yet water companies, agriculture and residences are virtually unregulated under County regulations. This creation of a false picture of sensible management of water resources in the County is really a smoke screen to try and grab unused recharge from Reservations for off-Reservation use. Consider the 80 homes

Comment Letter T 2, Campo Band of Mission (Kumeyaay) Indians (cont.)

T2-23. cont.	<p>next to the Campo Indian Reservation in Live Oak Springs. Under the County's own model, such a community far exceeds the recharge from their properties. The Vista Irrigation District pumps huge amounts of water from the basin shared with Los Coyotes and Santa Ysabel Reservations. Yet, the need for regulation or constraints on these properties which are within the jurisdiction of the County are ignored in the report while a tribal community is singled out. The report should analyze communities who depend on the Reservations not using their fair share of the water supply so that long term planning reserves those resources for the eventually use of the tribe.</p>
T2-24.	<p>Land use – Clearly this section does not include tribal long term build out in its assessment</p>
T2-25.	<p>Population – Housing needs for short term residents in the Mt. Empire Region are clearly not adequately addressed. Particularly in light of the activities on tribal and federal (border patrol) lands.</p>
T2-26.	<p>Public Service- There is no recognition or discussion of the extensive network of Reservation Fire Departments that fulfill a critical need in supporting the protection of residents and their property throughout the County under mutual aid agreements.</p>
T2-27.	<p>Climate Change- The long term impacts of climate change to water quality and the need for access to distribution systems is not acknowledged or discussed.</p>
T2-28.	<p>Mt. Empire Subregional Plan (Boulevard)</p> <p>The community vision is certainly not the way things operate in Boulevard. It would be good goal if the community leadership were sincere in wanting to achieve it.</p>
T2-29.	<p>1.1 Community Character</p> <p>Campo Reservation has employees who travel over one hour to work at the casino. Almost all of the border patrol live outside the area and commute to work. Most of the school staff live out of the area. These are important members of our community who only have a part-time interest. Yet, rental units are few and far between. Even where the land base in total would support a few apartment buildings, the antiquated land use policies encourage waste in employment commuting. This also transfers to travel for groceries, entertainment and many services that could be supported by the local population. Further, the downzoning that the Boulevard Planning Group proclaims does not go far enough, is, in fact, a taking of enormous value from existing property owners. This is a taking without compensation. Something that we were promised by County officials they would oppose and many thought our Constitution protected us from.</p>

Comment Letter T 2, Campo Band of Mission (Kumeyaay) Indians (cont.)

- T2-30. **1.2 Community Growth Policy**
 This is America. If a hamburger stand is allowed, it shouldn't matter if a local person wants to open a "McDonalds" or an out-of-area person opens a Boulevard Burger joint or vice versa. Just because it's a franchise doesn't mean a local person can't open it. Further, the people of the back country have the right to vote with their dollars in the arena of free enterprise. It should not be the role of the Boulevard Planning Group, a central committee or a commissar to give thumbs up or thumbs down on which company can operate in the community. The Planning Group can set standards on appearance and operations that help to keep a unique community character, but that should be the extent of it.
- T2-31. **Goal LU 3.1 pg 24**
 The San Diego Astronomy Association had previously gone on record that "any light at all" in the area of the casino would render their telescopes "totally worthless". Since then, the tribe has added significant amounts of light. If the Astronomy Association spoke the truth, it would seem that they are long past the point of needing relocation. The Astronomy Association should not be getting special treatment that would create issues for the Reservation at future build out (or any other community member for that matter). The astronomy association continually tries to sneak in requirements to protect their hobby with little or no regard or evaluation of the impacts that such requirements will have on others. The increasing lights from south of the border have had considerable affect on our night skies. The ability of people on our side of the border to adequately offset the international lighting issues is becoming increasingly untenable. There should be a clear, unambiguous evaluation of the present and future costs to our communities by any additional night skies requirement. Further, the Indian Reservations have been very generous in accommodating night skies considerations even though they were not consulted in their passage nor were they brought to the Reservation residents for approval. For the Astronomy Association to ask for these requirements for the off-Reservation community and then complain when the tribal communities don't comply is foolish and counterproductive and will ultimately leave them out of night skies considerations by the tribe.
- T2-32. **1.5 Community facilities**
 The Campo Indian Reservation has the only full time paid fire department in the area. This, despite the fact that the average Campo member lives far below the median County income level. The cost of this support is borne wholly by the Campo people, yet the fire department covers all of the Boulevard and Campo areas under a mutual aid agreement. The Boulevard Planning Group should back the return of the some of the \$350,000 in property taxes collected from the Reservation lands (both the use of the land and property on the land). In fact, there should be a recognition by the Boulevard Planning Group of the fact that, on a per capita basis, the Campo Indian people generate more property tax than the average off-Reservation resident.

Comment Letter T 2, Campo Band of Mission (Kumeyaay) Indians (cont.)

- T2-33. **1.6 Other Topics/Issues**
Planned village development, (whether derogatorily referred to as “cookie cutter” in this document), would be far more protective than haphazard grannie flats, back yard housing or RV parks. It should be noted that the liquids in many RVs need a sewage treatment plant for proper disposal. The long term affects of the multiple RV parks in the Boulevard area may already be creating plumes of long term degradation to our water resources.
- T2-34. **2.2 Local Road Network pg 27**
Old highway 80 was evaluated as a part of the casino Environmental Assessment in the late 1990s as well as in the Environmental Evaluation of 2000. The roads were monitored, build out was anticipated and suggestions and requirements from Cal Trans and the County were incorporated. Any expansion of the Casino and/or the landfill routing will undergo their own evaluation. Instead of a vague expression of concern about potential problems, the Boulevard Group could assist the tribe in getting a portion of the \$300,000 a year in gasoline tax that is generated by the tribal gas station and kept by the State and County with not a penny going to the tribe for roads projects.
- T2-35. **2.4 Local Transit Pg 28**
Ideas about the potential for transit support utilizing tribal lands should not be included in any Boulevard plan without first meeting with, and discussing, the proposal with the tribal government. To make suggestions through a General Plan Update, which has no authority over tribal land, without first meeting with the tribal planners is insulting to the tribal planning process and attempts to relegate tribal planners to a subordinate position in the process. Further, tribal planners and the gaming facility may already have plans that complement or could surpass the suggestion. This lack of consultation and coordination for a community that represents 1/3 of the Boulevard subregion is inexcusable and renders the whole document inadequate
- T2-36. **Goal CM 3.1.1: Allowing the Boulevard Planning Group the authority to grant waivers of the secondary fire access requirement give the Group more power than that of an “advisory” group and opens the door to arbitrary and capricious enforcement based on favors, deals and get-backs to political opponents.**
- T2-37. **Pg30 2.8 a. Water, Sewer and Septic:** The Boulevard Planning Group feigns concern about groundwater protection. Yet the single biggest contributor to groundwater contamination nationwide (septic systems) is ignored. One of the surest methods for ensuring groundwater protection from septage is sewage treatment facilities and the Boulevard plan rejects any and all sewage treatment plants as “growth inducing”. Since the plants are only feasible in areas where it makes economic sense from a build-out perspective, the rejection of sewage plants because they “induce growth” must mean that the lot size standards, water

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- T2-37. cont. supply and road issues are not enforceable. This doesn't make sense and it does not comply with the true discussion of "growth inducing".
- T2-38. Water use by water companies, agriculture and residences goes largely unregulated. If water supply were truly of the purported level of concern expressed, then standards for control of these three primary users should be promoted.
- T2-39. Water usage, wastewater and development on the Campo Indian Reservation seems to generate the greatest call for "action" or regulation from the Boulevard Planning Group and other politicians. Yet, when it comes to regulating the actions of off-Reservation residents they are strangely mute.
- T2-40. The claim of pure, clean water in the Boulevard area is unsubstantiated. There are many areas of natural contamination, including uranium, iron, manganese, zinc and leachate from old underground storage tanks. Residential wells are not normally tested for any contaminant except nitrates, coliform and dissolved solids. Many home owners don't know what types of contamination they have, and don't want to know, out of fear that they may lose value on their property. If the Boulevard Planning Board were truly concerned about the quality of the community's water they would do what the Campo Indians have done and require the examination of a broad range of contaminants, particularly prior to property sales.
- T2-41. Pg 33
In 2007 the fiberglass protective sleeve covering one of the turbine blades at the Campo Wind facility developed a delamination. The turbine was turned off and the blade was locked in the downward position. While awaiting an opportunity to replace the blade, the wind got under the delamination and the sleeve slowly dropped until it dropped off of the blade. The blade itself was intact. There was no shedding of a blade. Further, the upgrades to the SDGE lines that were undergone were already scheduled prior to the construction of the Campo facility. The schedule was simply accelerated. We could find no evidence of power outages for weeks on end. These types of unsubstantiated statements should not be in this type of document, and, in fact, seem to point to an intentional effort to mislead and misinform County decision makers. The fact that the tribe is easy to contact, either directly by phone/email; or through the County tribal liaison and that such contact was not done, shows that this was knowingly submitted as false. This should be remembered when future comments are submitted on proposed projects as a black mark on the Boulevard Planning Groups credibility. Further, if residents had problems with brown-outs that they felt deserved compensation they should have taken such action against SDG&E under state law.
- Additionally, lightning strikes are common on hill tops. The presence of grounded wind turbines in brush cleared areas probably reduces the potential of wild fires. It would be interesting to see how the actual data correlates before making unsubstantiated claims about increased fire risk.

Comment Letter T 2, Campo Band of Mission (Kumeyaay) Indians (cont.)

2.8 d. Landfill

T2-42. When establishing the modern standards for Landfills the US EPA surveyed existing landfills which, at that time, did not have leachate collection systems. After the survey, the EPA said that the assumption should be made that all landfills will eventually leak due to the long term collection of leachate in the bottoms of lined landfills. In order to safely operate a landfill, a leachate collection system should be made a requirement under federal law. Based on this suggestion, new standards were implemented in the early 1990s which incorporated this design. The same is true for the subsequent incorporation of gas collection systems. For the Boulevard Planning Group to pluck a comment out of past, for a completely different type of facility and use it out of context is to mislead the decision makers in the County. This is further evidenced in the reference to a Sole Source Aquifer designation. This designation specifically says that it not be used as a siting argument against landfills. Members of the Boulevard Planning Group are aware of this fact. If it is being withheld from other members or from County officials it is intended to deceive rather than inform.

b. Plant and animal habitats..... pg 37

T2-43. The impacts of wildlife corridors and the creation of endangered species habitats near the reservation and compatibility with tribal land use plans is non-existent and renders the majority of this section in need of considerable amount of revision.

f. Air quality pg 39

T2-44. The current land use practice of ranchettes creates huge areas of denuded land as homeowners clear over 6 acres of their land for fire protection for each home. Compounded by the high number of poorly maintained dirt roads and high winds the Boulevard area becomes a dust bowl in certain high wind conditions. Cattle denude and desertify thousands of acres of the Boulevard region. By comparison, landfills, aggregate mining, wind energy pads and easement roads are miniscule. The OHV area on the Campo Indian Reservation is specifically named in section COS 2.2. Isn't it interesting that all of the forms of economic development proposed or operating on the Campo Indian Reservation are specifically named as concerns or issues? Yet, the far greater impact from off-Reservation properties due to cattle grazing alone can easily be seen by looking at the denuded lands on readily available aerial photos and are ignored in this report. The Boulevard Planning Group has a clear agenda and it's certainly not fairness and equity in regional planning. For the County to use the Boulevard subregional report as the basis for the General plan update clearly violates environmental justice issues under State law and is, in general, poor planning.

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- 3.2 Parks, Recreation and open space
- T2-45. To expect much from the County in this area is wishful thinking, particularly in our present economy. But smart, village style growth is the key to many types of community facilities as the "buy in" price to development.



Monique LaChappa
Chairwoman
Campo Band of Mission (Kumeyaay) Indians

Responses to Letter T 2, Campo Band of Mission (Kumeyaay) Indians

- T2-1 This comment is introductory in nature and does not raise a significant environmental issue for which a response is required.
- T2-2 County agrees with this information. No further response is required.
- T2-3 The County does not agree with the comment that formal use of government to government consultation does not occur in San Diego County. While there is always room for improvement in communications between the Tribes and the County, a good faith effort has been made by the County to engage the Tribes in a dialogue concerning the General Plan Update since 2005.
- T2-4 The County acknowledges this comment, but did not make any changes to the General Plan text.
- T2-5 In reference to Land Use Element Goal LU-1, this comment notes that it is well known that the tribes have a need for future expansion, particularly for parcels within or adjacent to the Reservations. The County acknowledges this comment, but does not concur that changes to Goal LU-1 are necessary. This goal is intended to be a broad statement that ties the land use plan with the overall guiding principles of the General Plan.
- T2-6 The County does not agree that the General Plan document has significant and substantive flaws because it utilizes planning group documents. The County acknowledges that development of the General Plan documents relied heavily on input from community planning and sponsor groups, as well as other stakeholders, but does not concur that this created a flaw in the General Plan. On the contrary, the community input has assisted in ensuring that the County retains its overall character comprised of diverse communities.
- T2-7 This comment states that economic viability cannot be addressed properly without also addressing the impacts of downzoning and including tribal economies and plans. The County acknowledges that the tribal economies are an integral part of the County's economy and Policy LU-2.6 Commercial Viability does not diminish the importance of tribal economies. The intent of Policy LU-2.6 is to ensure that new commercial centers do not adversely impact viable existing commercial centers. While the County does not have land use authority for commercial centers on tribal lands, coordination efforts between the tribes and the County are welcome to maximize the viability of commercial centers both on and off of tribal lands. No changes have been made to Policy LU-2.6.
- T2-8 This comment questioned whether tribal communities are included in the interjurisdictional coordination identified in Goal LU-4. The intent of the goal is to include inter-jurisdictional coordination with tribal communities, and to clarify this "tribal governments" has been added to the goal.
- T2-9 The County acknowledges that the policies under draft General Plan Goal LU-8 Aquifers and Groundwater Conservation are limited to areas where the County can

Responses to Letter T 2, Campo Band of Mission (Kumeyaay) Indians (cont.)

exercise its land use authority, such as discretionary development permits, and does not address ongoing agricultural uses.

The comment further states that “future build out on the Reservations” should be considered when implementing Policy LU-8.3 Groundwater-Dependent Habitat. The intent of this policy would be to limit groundwater-dependent development that would significantly draw down the watertable within an aquifer to a level that would adversely impact groundwater-dependent habitat over a prolonged period. In evaluating potential impacts to groundwater-dependent habitat for future development reliant on groundwater, baseline hydrologic conditions are required to be established which take into consideration existing Tribal pumping along with existing groundwater pumping by County groundwater users.

T2-10 This comment contends that the County does not adequately consider the land use plans of tribal communities in the areas of water quantity (groundwater quantification model) and quality, economic impacts, and property development rights. The responses to these assertions, which did not result in changes to the draft General Plan or DEIR, are provided as follows:

- Water quantity - It is unclear what “equitable allocation of the groundwater quantification model” means and, therefore, no further response can be provided.
- Water quality - The County does receive water quality data from a number of sources. However, it is unclear what “access to distribution systems” refers to. While the County does have regulatory control over proposed land uses in the backcountry, the County does not actively manage water in the role of a public water service agency nor does it have the resources or capabilities of providing anyone in the backcountry access to distribution systems.
- Economic Impacts of Downzoning - The County does not agree with this comment. Social and economic effects themselves are not required to be evaluated in an EIR, although they may be used to determine that physical change is caused by the project. Here, the County has determined that no physical change will result from any economic or social changes resulting from the project. See CEQA Guidelines section 15064(e).
- Property Development Rights - The comment expressed concern that if property rights become a commodity they should be kept within the rural zones where they are created. The County appreciates this comment, which will be considered. Since this issue does not pertain to the content of the DEIR, no further response or revision is necessary.

T2-11 The County disagrees that there was insufficient coordination between the tribes and the County during the General Plan Update planning process and that an adequate EIR is impossible because of this. The General Plan Update process involved a broad spectrum of the community through an extensive public outreach program that included hundreds of meetings, mailings, e-mail updates, a hotline, and website updates. In 2006 the County notified all tribal representatives regarding the opportunity to consult pursuant to SB18. As a result, meetings were held with the six

Responses to Letter T 2, Campo Band of Mission (Kumeyaay) Indians (cont.)

tribes who requested a meeting. During this process, the County made a conscious decision to focus development in accordance with the Community Development Model (Guiding Principle #2), which meant that rural lands around tribal reservations would remain rural. The County is willing to meet with the Campo tribe to discuss this further.

- T2-12 This comment noted that DEIR Table 1-12 is missing many significant projects proposed for the Campo Indian Reservation. The County information is based on information that was available in or around April 2008, which is when the Notice of Preparation (NOP) was circulated for public review. This is consistent with Section 15125 of the CEQA Guidelines, which states, "an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the NOP is published." The County made every effort to obtain a through list of past, present and probably future projects from the Campo Band of Mission (Kumeyaay) Indians. Any updated information would be greatly appreciated.

The comment further stated that the DEIR does not acknowledge that industrial and commercial zones existing on the tribal lands. Commercial and industrial zones on tribal lands were not addressed in the cumulative analysis of the DEIR because they did not appear to qualify as past, present or probable future projects at the time the NOP was published." However, it should be noted that existing land uses on the Indian Reservations were included in the traffic model data to forecast existing traffic volumes, average vehicle miles traveled, and air quality.

- T2-13 This comment suggests that the analysis in DEIR Section 2.1 Aesthetics is meaningless because scenic vistas were identified over tribal lands without the concurrence of the tribes. The County acknowledges that scenic vistas identified in the DEIR include areas on Indian Reservations, but does not concur that their inclusion is meaningless. Section 2.1.4.1 Issue 1 Scenic Vistas recognizes that there are projects on the reservations, which could have the potential to impact the scenic vistas. In addition, the analysis focuses on whether development under the General Plan Update would disrupt the identified scenic vistas; it does not establish regulations that would impede other agencies from carrying out actions within their own jurisdictions. General Plan Update Policy COS-11.4 Collaboration with Agencies and Jurisdictions has also been amended to include "tribal governments" in response to this comment.

- T2-14 This comment states that the location of Palomar and Mount Laguna Observatories were determined without an analysis of the long term economic impacts to the tribal communities. However, it should be recognized that the Palomar and Mount Laguna Observatories are existing land uses and the General Plan Update would not affect their location or operations. Therefore there is no requirement for the EIR to analyze the impacts of these facilities on reservations.

Regarding coordination with tribes, policy COS-13.3 and mitigation measure Aes-4.3 have been added to acknowledge the necessary collaboration with tribal governments.

Responses to Letter T 2, Campo Band of Mission (Kumeyaay) Indians (cont.)

- "COS-13.3 Collaboration to Retain Night Skies. Coordinate with adjacent federal and State agencies, local jurisdictions, and tribal governments to retain the quality of night skies by minimizing light pollution."
- "Aes-4.3: Participate in regional planning and planning by agencies operating within or adjacent to the County to the extent practicable. This includes participation in SANDAG and other regional planning forums, reviewing and commenting on planning and environmental documents issued by other agencies, and ongoing collaboration with Native American tribes and adjacent jurisdictions."

T2-15 This comment asserts that the DEIR did not consider the potential direct impacts to tribal communities from the unrestricted use of groundwater for agricultural purposes. The County does not agree with this comment. The General Plan Update Groundwater Study evaluated impacts to groundwater resources taking into consideration reported agricultural irrigation known to be occurring throughout the study area. With the inclusion of agricultural users in the impacts analysis, Section 3.6.5 of the study evaluated potential impacts to groundwater resources to neighboring tribal lands. Impacts were considered to be less than significant. Over the years there have been a few sporadic cases of overuse of water by existing agricultural users brought to the County's attention. However, overall, these have been the exceptions rather than the norm. The majority of homes in the backcountry typically consumptively use approximately 0.5 acre-feet of groundwater per year per household. There are some who use more and some who use none at all due to homes being vacant. It is possible that future agricultural uses could cause localized groundwater impacts that were not evaluated as part of the study. However, in order for a public agency to regulate a specific use, there typically must be significant problems occurring which would trigger regulations. The County is not aware of any specific cases where agricultural irrigation from groundwater users in the County is creating significant regional impacts to groundwater resources of tribal lands. If the commenter is aware of specific cases, the County should be informed.

The comment also includes a quote from DEIR Section 2.2.3.1. The cited sentence is part of the analysis concerning whether or not the General Plan Update would directly convert San Diego County Agricultural Resources (including, but not limited to, Prime Farmland, Unique Farmland, Farmland of Statewide or Local Importance, pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency), or other agricultural resources, to non-agricultural use. The finding that the General Plan Update would not result in such direct conversion on lands outside the County jurisdiction is reasonable given this significance guideline.

T2-16 This comment notes that DEIR Section 2.1.1.5 Community Character, under the Boulevard heading, identifies the Golden Acorn Casino as "being outside the community character of small rural business." The County does not concur that the DEIR should be changed to discuss the community character of the Reservation since this is outside the jurisdiction of the County and not addressed by the DEIR. Therefore, no revisions were made to the DEIR in response to this comment.

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- T2-17 This comment criticizes the DEIR Section 2.1.4.2 Issue 2 Scenic Resources due to the stated conclusion that potential impacts to the scenic resources of the Reservation could result with construction of a casino and hotel on the La Jolla Reservation. The DEIR is meant to be an unbiased objective analysis of the impacts that would result to County-wide scenic resources from implementation of the proposed project, along with the projects of other jurisdictions, agencies, and tribal governments within the County. The County recognizes that any construction on Indian Reservations falls under the jurisdiction of the Reservation. Therefore, no revisions were made to the DEIR in response to this comment.
- T2-18 This comment notes that construction of the Jacumba Valley Ranch project could result in some shorter commute times for local employees, although the DEIR Section 2.3 Air Quality identifies it as a source of increased emissions. The construction of Jacumba Valley Ranch could result in shorter commute times by local employees; however, the General Plan Update vehicle miles traveled (VMT) forecast model determined that VMT would be increased with the project. Additionally, even with some reduced commutes, it is likely that development of the Jacumba Valley Ranch project will result in an overall increase in VMT because employment will not be exclusive to the nearby employers and many trips to schools, services, and shopping will likely extend beyond the area. Therefore, no revisions were made to the DEIR in response to this comment.
- T2-19 This comment notes that DEIR Section 2.3 Air Quality fails to acknowledge that the Indian Reservations have the potential to designate their lands as Class 1 areas and the DEIR did not identify the potential impacts that would result from such a designation. Based on all available public information, the County could find no indications that any local tribal lands may be designated as Class 1 areas. Since this does not appear to be an existing or foreseeable designation, the County does not agree that this issue should be evaluated in the DEIR.
- T2-20 The County's approach to evaluating impacts to wildlife is consistent with CEQA. The County agrees that cattle grazing and agriculture qualify as impacts to biological resources. The County also finds, as discussed in the DEIR, that other land uses associated with the General Plan Update may have a significant effect on wildlife and habitat. It should be clarified that the County does not strive for a "lack of human activity" within natural ecosystems, but does seek to minimize adverse effects of land use and development.
- T2-21 The County does not agree that the DEIR discussion of Army Corps of Engineers' regulations should include details such as whether or not cattle grazing would be regulated. The descriptions provided are general overviews based on the latest available information. The determination as to whether or not a project requires a permit from the Army Corps of Engineers depends on numerous factors in addition to the location and the proposed use. However, these case-by-case decisions would not affect the overall analysis provided in the DEIR or the determination that impacts to federally protected wetlands would be potentially significant but mitigated.

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- T2-22 The County agrees with this comment and has revised the DEIR Section 2.5 Cultural Resources, Native American Perspective, by adding the following sentence:
- “Some anthropologists and archaeologist concur with the Native American perspective of the continuity of descent from the earliest County inhabitants, and recognize the possibility that the descendents of the earlier cultures in the County are the later cultures resulted from the absorption and intermarriage with the earlier peoples.”
- T2-23 The County respectfully disagrees that the inclusion of the Barona Indian Reservation is for the intention of obtaining unused recharge from Reservations for off-Reservation use. Section 3.1.2.3 of General Plan Update Groundwater Study describes that basin boundaries were redrawn to exclude Indian Reservation lands from analysis. In recognition of tribal rights to groundwater beneath their lands, the study did not include any groundwater recharge or storage from Indian Reservations as a potential net benefit of County users. The only exception was in cases where a given Indian Reservation exceeds its sustainable yield to the potential detriment of off-Reservation groundwater users. The County conservatively considered the entire Barona hydrologic sub-area to be connected for purposes of planning new development. Since the Barona Reservation exceeds its sustainable yield, the inclusion of this impact was used to evaluate groundwater dependent development in the Barona hydrologic sub-area. Therefore, no revisions were made to the DEIR in response to this comment.
- T2-24 This comment states that the DEIR Section 2.9 Land Use does not include long term tribal build-out in its assessment. The County information is based on information that was available in or around April 2008, which is the when the Notice of Preparation (NOP) was circulated for public review. This is consistent with Section 15125 of the CEQA Guidelines, which states, “an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the NOP is published.” Therefore, no revisions were made to the DEIR in response to this comment.
- T2-25 This comment is vague in its description of “short term housing;” however, the proposed project would allow for 3,416 additional housing units in the Mountain Empire Subregion. This addition, when compared to the estimated existing conditions of 2,694 units, is over double the amount of existing housing. There is no evidence to support the claim that this housing capacity is not sufficient to accommodate employees of existing and future jobs in the backcountry. More likely, these housing units will improve the jobs to housing imbalance that exists in the Backcountry.
- T2-26 Mutual aid agreements with Reservation Fire Departments was discussed in DEIR Section 2.13.1.1 and depicted in Figure 2.13-1. It was determined that discussion of mutual aid agreements with Reservation Fire Departments was not necessary in the impact analysis as it would not affect the conclusions in the DEIR. The impact issue as provided by CEQA Guidelines is whether or not the project would result in physical impacts from new or expanded fire service facilities. Despite the

Responses to Letter T 2, Campo Band of Mission (Kumeyaay) Indians (cont.)

- coordination with Reservation Fire Departments, the County's General Plan Update will result in the need for more facilities to support the proposed development.
- T2-27 In response to this comment, the Climate Change section of the DEIR has been revised to include effects on water quality. Please see DEIR Section 2.17.3.2 for water quality discussion.
- T2-28 The County acknowledges this comment and clarifies that this vision is what the Boulevard Community Planning Group wrote as what it would like to see in the future of the community.
- T2-29 The County concurs that it is ideal to have employment centers adjacent to jobs, services and other amenities. However, due to groundwater and other infrastructure limitations in the backcountry, intensive smart growth centers are not feasible. Therefore, new multi-family densities were not applied in the Mountain Empire Subregion. Furthermore the County does not concur that the reductions in density would constitute a taking. These densities still allow for development to occur on the property, but in a pattern that is more reflective of the physical constraints of the land.
- T2-30 The comment refers to the issue that is followed by the policy, "Promote Boulevard's unique community character, resources, ambiance, and appeal to encourage and support business opportunities in Boulevard that display the historic, natural, and cultural resources that are prevalent throughout the region." The County appreciates the comment on the issue; however, this is an issue that has been identified by community groups in order to preserve rural character. The policy that follows is a positive policy to support appropriate rural business. Therefore, no revisions have been made to the Mountain Empire Subregional Plan as a result of this comment.
- T2-31 The County acknowledges the comment, but contends that the County has not identified the Astronomical Association as holding the same status as the Mount Laguna and Palomar Observatories in the Conservation and Open Space Element of the draft General Plan. The policies provided under Goal LU 3.1 of the Boulevard Section of the Subregional Plan would encourage development under the General Plan Update to reduce and shield lighting. The County does not agree that this gives special treatment to the Astronomical Association or adversely affects the tribal community.
- T2-32 The County appreciates this information. The Campo and Boulevard areas both have Volunteer Fire and Rescue Departments; however, CAL FIRE has primary responsibility for wildland fire protection in the areas. The County acknowledges that the Campo Reservation Fire Department also provides coverage under mutual aid agreement. The following paragraph was added to the draft Boulevard Section of the Mountain Empire Subregional Plan under Issue LU 5.1:
- "The Campo Band of Mission (Kumeyaay) Indians has a full-time fire department that provides service to the entire area under mutual aid agreement. Additional

Responses to Letter T 2, Campo Band of Mission (Kumeyaay) Indians (cont.)

- coordination with the Campo Indian reservation is needed to assure continued funding.”
- T2-33 The County acknowledges the comment, but no revisions were made to the draft Boulevard Section of the Mountain Empire Subregional Plan. Second dwelling units (granny flats) would still need to comply with the Groundwater Ordinance, and RV park wastewater disposal is regulated by the County.
- T2-34 The County appreciates this comment. The following text was deleted from Issue 2.1 under the Local Road Network section of the Circulation and Mobility chapter in the draft Boulevard Section of the Mountain Empire Subregional Plan:
- “Potential cumulative traffic impacts and concerns include the two driveways for the Golden Acorn Casino Truck and Travel Center that intersect with Historic Route 80 and Church Road, near the Crestwood / I-8 interchange, along with the La Posta Casino just north of the I-8 interchange, and the projected truck traffic for the proposed Campo Landfill which will also be using the I-8 /Crestwood interchange and Church Road to access the landfill site which is proposed to be located south of State Route 94. Landfill traffic will cross State Route 94 at BIA Route 10.”
- Regarding gas tax revenues, the Subregional Plan is not the appropriate document in which to lobby that gas tax revenues be used for local roads.
- T2-35 The following text was removed from section 2.4 Local Transit of the Circulation and Mobility chapter in the Boulevard Section of the Mountain Empire Subregional Plan:
- “With the permission and support of the local tribal governments, Park & Ride areas for carpooling could potentially be set up in remote areas of the Golden Acorn and La Posta Casinos parking lots. Also with coordination, permission and support of the tribal governments, their casino shuttle buses which run up and down the mountain could serve as a form of rural bus transportation. With paying riders, this potential option could help defray the shuttle bus expenses for the tribes and provide a public service at the same time. This scenario could also provide extra casino business from those using the Park & Ride and shuttle bus services.”
- The deleted text was replaced with the following sentence:
- “Opportunities for increased efficiencies, grant monies to supplement transit operations, and construction of park and ride facilities should be explored through coordination including working with the County, Metropolitan Transit System (MTS) and Tribal Governments.”
- T2-36 Section 2.3 Fire Access/Egress Routes of the Circulation and Mobility chapter in the draft Boulevard Section of the Mountain Empire Subregional Plan was revised by replacing “unless the approval of the Boulevard Planning Group and all impacted property and road owners is granted, along with the legally required deeded easement grants” with “whenever feasible.”

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In addition, the Policy CM 3.1.2 was deleted in its entirety.

- T2-37 The County acknowledges that septic systems can contribute to groundwater contamination, but did not find it necessary to make revisions to Section 2.8 Infrastructure and Utilities, Water, Sewer and Septic of the draft Boulevard Section of the Mountain Empire Subregional Plan, which primarily discusses the groundwater resources in Boulevard.
- T2-38 The County does not agree that additional means to conserve water are necessary in the draft Boulevard Section of the Mountain Empire Subregional Plan.
- T2-39 The opinion expressed by this comment did not result in any revisions to the draft Boulevard Section of the Mountain Empire Subregional Plan.
- T2-40 The draft Boulevard Section of the Mountain Empire Subregional Plan does not claim "pure, clean water in the Boulevard area"; therefore, no revisions were made to the document as a result of this comment.
- T2-41 The County thanks the Campo Band of Mission Indians for the comment; significant revisions were made to the Boulevard Community Plan to remove unsubstantiated and unnecessary discussion, as well as encourage an effective and professional discussion. In response to this comment, the first three paragraphs from Issue CM 8.6 under the Energy (natural gas and electricity) heading in section 2.8 Infrastructure and Utilities of the Circulation and Mobility chapter in the Boulevard Section of the Mountain Empire Subregional Plan have been revised, retaining only general descriptions of existing facilities and a general framing of the issue, while eliminating discussion of proposed projects or other commentary. Text on the electrical power infrastructure will be included only after coordination with SDG&E. In addition the fourth paragraph under this issue has been revised replacing "all of these" with "there is concern by residents that" and the following has been deleted from the end of the first sentence:
- "and pose a threat to the health and safety of Boulevard and the backcountry."
- In addition, the following has been deleted from the end of the fifth paragraph:
- "expensive, extensive, destructive, and invasive power and transmission projects making their way through rural communities, sensitive lands and habitats".
- T2-42 The County appreciates this comment and has made revisions to the draft Boulevard Section of the Mountain Empire Subregional Plan as recommended. The first, second, and fourth sentences have been deleted from Issue CM 8.7 under the Landfill heading in section 2.8 Infrastructure and Utilities of the Circulation and Mobility chapter in the Boulevard Section of the Mountain Empire Subregional Plan. Also, the third sentence has been revised as follows:
- "Due to the area's total reliance on groundwater resources, any new landfills are required to meet U.S. Environmental Protection Agency (EPA) standards, including

Responses to Letter T 2, Campo Band of Mission (Kumeyaay) Indians (cont.)

~~the requirement to install a leachate collection system. the landfill site is located within the federally designated Campo-Cottonwood Creek Sole Source Aquifer and is abutted on three sides by private property."~~

T2-43 The County appreciates the comment, but it does not appear to raise any specific issues regarding the plant and animal habitat section of the Conservation and Open Space Chapter in the Boulevard Section of the Mountain Empire Subregional Plan. It should be noted that since goals and policies are not included under this issue, the issue text has been relocated to the Community Background section and has been fact-checked with the MSCP division of the Department of Planning and Land Use and the necessary revisions have been made.

T2-44 The County appreciates this comment. Air quality issues are more comprehensively addressed in the draft General Plan (see Conservation and Open Space Element, Goals 14-20). Therefore, Goal COS 1.5 and Policy COS 1.5.1 have been deleted under the Air Quality section of the Conservation and Open Space Chapter in the Boulevard Section of the Mountain Empire Subregional Plan.

In addition, the following was deleted from issue COS 2.2 concerning off-road vehicles under the Parks, Recreation, and Open Space section:

"adjacent to private property which has generated complaints of noise, dust and lights. Federal and tribal trust lands are not subject to County regulation or enforcement."

T2-45 The County appreciates the comment regarding the Parks, Recreation, and Open Space section of the Boulevard Plan. No revisions to the draft Boulevard Section of the Mountain Empire Subregional Plan were necessary in response to this comment.

Comment Letter T 3, Kwaaymii Laguna Band of Indians

COURTNEY ANN COYLE
ATTORNEY AT LAW

HELD-PALMER HOUSE
1609 SOLEDAD AVENUE
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Devon Muto, Project Manager
County of San Diego General Plan
5201 Ruffin Road, Suite B
San Diego, CA 92123

By Confirmed Fax 858.694.2485 & Mail

August 31, 2009

Re: County of San Diego – Draft EIR and Draft General Plan, July 1, 2009

Dear Mr. Muto:

T3-1.

I write on behalf of Carmen Lucas, Kwaaymii Laguna Band of Indians and an owner of the Lucas Ranch located within the Pine Valley Planning area. This letter supplements the dialogue my client has had over the last eight years with DPLU management and staff, the Planning Commission and the Board of Supervisors regarding: 1) the treatment of tribal cultural resources in general and 2) the proposed land use designations affecting the Lucas Ranch in particular. Accordingly, we timely submit the following comments on the Draft EIR and General Plan dated July 1, 2009:

I. Cultural Resource Issues

T3-2.

In general, over the years, my client and my office have provided substantial comments, suggestions and revisions to the General Plan as well as to County Guidelines and policies. We carry forward each of those comments to the extent that they have not yet been incorporated and implemented by the County.

T3-3.

More specifically, we expect that appropriate revisions will be made to the General Plan, EIR and Draft Implementation Plan as discussed at the July 29, 2009 meeting between us and County staff including, but not limited to, that reflected in the Meeting Record.

II. Lucas Ranch Land Use Designation Issue

T3-4.

Second, we again confirm that the appropriate Plan density for this unique property is 1 unit per 40 acres. The Board of Supervisors considered and confirmed the issue of the General Plan 2020 proposed density for the Lucas Ranch as a referral in 2003. From what has already been provided to the County over the last eight years

Comment Letter T 3, Kwaaymii Laguna Band of Indians (cont.)

T3-4. relative to these parcels in the General Plan, the Lucas Ranch is a property with a unique history and ultimately had been recognized as such in the referral to the Board.


T3-5. We understand that three of the four General Plan Update land use alternatives (Referral, Hybrid and Draft Land Use) correctly designate the property as Rural Lands 40. However, we were surprised to discover that the Environmentally Superior Alternative shows a different designation, one of Rural Lands 80, for the Lucas Ranch. My client was not consulted on the Environmentally Superior Alternative.

T3-6. The effect of the governing 1947 Congressional Act entitled "An Act Authorizing and directing the Secretary of Interior to issue a patent in fee to the surviving members of the Laguna Band of Mission Indians of California," is a legal constraint that should appear across each of the Plan and EIR alternatives in the Final EIR, including the Environmentally Superior Alternative. As presented in the Draft EIR, this alternative does not take in account the effect of this Act of Congress and appears inconsistent with it.

T3-7. Accordingly, it is our informed belief that this alternative is not feasible as presented. State CEQA Guidelines list the term "legal" to the list of factors to take into account to determine the feasibility of an alternative. 14 Cal Code Regs Section 15364. We respectfully request this discrete mapping oversight be corrected without delay to avoid unnecessary confusion and the potential for legal error.

T3-8. Thank you for your courtesy and cooperation and for considering our comments. Should the County have any questions on our comments and concerns, please do not hesitate to contact me. We look forward to reviewing the County's response to comments.

Very truly yours,


Courtney Ann Coyle
Attorney at Law

Cc: Dianne Jacob, County Supervisor
Vern Denham, Chair Pine Valley Planning Group
Bob Citrano, County DPLU
Gail Wright, County DPLU
Carmen Lucas

Responses to Letter T 3, Kwaaymii Laguna Band of Indians

- T3-1 This comment is introductory in nature and does not raise a significant environmental issue for which a response is required.
- T3-2 The County acknowledges this comment. Many of the suggestions and comments made by Ms. Coyle have been incorporated into the various General Plan Update documents
- T3-3 The County has revised the Implementation Section of the General Plan Update pursuant to comments discussed at the July 29, 2009 meeting. Comments related to the Guidelines for Determining Significance: Cultural Resources were noted at that meeting to be included in subsequent updates to the guidelines, which are not a part of the General Plan Update documents.
- T3-4 The comment is acknowledged. The County recognizes the Lucas Ranch as a property with a unique history.
- T3-5 The County agrees with this comment that three of the four DEIR land use alternatives designate the subject property as RL-40, or one dwelling unit per 40 acres. The fact that the Environmentally Superior Alternative has a land use designation of RL-80 (one dwelling unit per 80 acres) was discussed at the July 29, 2009 meeting with the commenter and property owner and it was noted that the Pine Valley Planning Group supported that alternative. In response to a suggestion by the County, the property owner Carmen Lucas met with the Pine Valley Community Planning Group and they have since endorsed her request for an RL-40 designation on her property. It should be noted that these designations for the property will not be considered when adopting the General Plan Update land use map because the Lucas Ranch property is subject to the Forest Conservation Initiative (FCI). Any changes to existing General Plan land use designation for this property can only occur after December 31, 2010, when the FCI expires and the General Plan land use map is amended to include those parcels.
- T3-6 This comment notes that the 1947 Congressional Act resulted in a patent in fee to surviving members of the Laguna Band of Mission Indians that would require the Lucas Ranch to be subdivided into five parcels, which would require a density of no less than RL-40. The County appreciates this information. As noted above in response to comment T3-5, the property is subject to the FCI and, therefore, will not be re-designated until after December 31, 2010. The information in this comment will be included in the documents for consideration by the Board of Supervisors at that time when the land use map is amended to include the property.
- T3-7 Please refer to response to comment T3-5 above. No changes to the DEIR are necessary since all FCI lands shall remain unchanged until after December 31, 2010.
- T3-8 This comment provides concluding remarks for which a response is not required.

Comment Letter T 4, Pechanga Band of Luiseño Indians



TOMARAS & OGAS, LLP

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Kathryn A. Ogas
Brenda L. Tomaras

kogas@mtowlaw.com
btomaras@mtowlaw.com

August 25, 2009

Sent via Email to: gpupdate.DPLU@sdcounty.ca.gov

Devon Muto
County of San Diego, Department of Planning and Land Use
5201 Ruffin Road, Suite B
San Diego, CA 92123-1666

Re: San Diego General Plan Update 2020- Draft Goals and Policies

Dear Mr. Muto:

T4-1. This comment letter is submitted on behalf of the Pechanga Band of Luiseño Indians (hereinafter, "Pechanga Tribe"), a federally recognized Indian tribe and sovereign government regarding the Draft EIR for the County's General Plan Update and the revised Draft policies.

T4-2. The Pechanga Tribe has a strong interest in the protection of invaluable Luiseño cultural resources which will be impacted as a result of the policies and objectives set forth in the County's proposed updated General Plan. As such, the Pechanga Tribe intends to continue to be involved in the preparation process and to continue to submit comments as applicable. We request that all comments be part of the official record of approval for the General Plan Update and for SB 18 purposes.

T4-3. **THE PECHANGA TRIBE IS CULTURALLY AFFILIATED
WITH LAND WITHIN THE COUNTY'S JURISDICTION
AND SPHERE OF INFLUENCE**

T4-4. The Pechanga Tribe has a legal and cultural interest in the proper protection of sacred places and all Luiseño cultural resources. The Tribe is concerned about both the protection of unique and irreplaceable cultural resources, such as Luiseño village sites and archaeological items which would be displaced by development, and on the proper and lawful treatment of cultural items, Native American human remains and sacred items likely to be discovered in the course of development and improvements within the County.

T4-5. The Pechanga Tribe asserts that the Luiseño territory extends southward from western Riverside County into the northeast corner of San Diego County and is part of the Pechanga Tribe's aboriginal territory, as evidenced by the existence of Luiseño place names, rock art, pictographs, petroglyphs, and an extensive Luiseño artifact record. The Tribe asserts that this culturally sensitive area is affiliated specifically with the Pechanga Band of Luiseño Indians

Comment Letter T 4, Pechanga Band of Luiseño Indians (cont.)

Letter to Devon Muto
Re: SD GP Update DEIR
Page 2

T4-5. cont. because of the Tribe's specific cultural ties to this area. Pechanga considers any resources located within this regional area to be Pechanga cultural resources.

T4-6. The Pechanga Tribe's knowledge of our ancestral boundaries is based on reliable information passed down to us from our elders; published academic works in the areas of anthropology, history and ethno-history; identified locations of rock art and Luiseño sites and through recorded ethnographic and linguistic accounts. Of the many anthropologists and historians who have presented boundaries of the Luiseño traditional territory, none have excluded at least some portions of this area from their descriptions (Sparkman 1908; Kroeber 1925; White 1963; Harvey 1974; Oxendine 1983; Smith and Freers 1994). Current territory boundaries as placed by the Pechanga Tribe are based upon communications by our elders and these ethnographic and anthropological descriptions. Although, while historic accounts, anthropological and linguistic theories are important in determining traditional Luiseño territory; the Pechanga Tribe asserts that the most critical sources of information used to define our traditional territories are our songs, creation accounts and oral traditions.

T4-7. Luiseño history begins with the creation of all things at '*éxva Teméeku*,' which is located within the northern portion of the Project area, and dispersing out to all corners of creation (what is today known as Luiseño territory). *Éxva* describes a "place of sand" and *Teméeku* literally means "sky place." Temecula derives its etymology from this meeting place, where the Santa Margarita River, Temecula Creek and Pechanga Creek converge into the Santa Margarita River and flow onto the Pacific Ocean. While these terms indicate a specific place, it is important to note that many locational terms refer to a much larger area and often incorporate many square miles of land. This location is where our Origin Story and ancestral songs say *Túukumit* (Father Sky) and *Tamáayawut* (Earth Mother) created the world. Their children were known as the first people or *Kaamalam*, which were all the creatures: trees, rocks, fog, deer, bear, birds and humans.

T4-8. Our creation songs state that it was at Temecula that the first human, *Wuyóot*, lived, fed and taught the people and here that he became sick. Many Luiseño songs relate the tale of the people taking the dying *Wuyóot* to the many hot springs, including Murrieta Hot Springs (*Churúkuniknu Sákiwuna*) and those at Lake Elsinore (*'iténgvu Wumówmu*), where he died. He was cremated at '*éxva Teméeku*'. It is our creation account that states the Luiseño have always lived in Temecula and the surrounding areas. The Temecula people, who were evicted and moved to the Pechanga Reservation, are now known as the Pechanga Band of Luiseño Mission Indians (the Pechanga Tribe).

T4-9. Many traditions and stories are passed from generation to generation by songs. One of the Luiseño songs recounts the travels of the people to Elsinore after a great flood (DuBois 1908). From here, they again spread out to the north, south, east and west. Three songs, called *Moníivol*, are songs of the places and landmarks that were destinations of the Luiseño ancestors. They describe the exact route of the Temecula (Pechanga) people and the landmarks made by each to claim title to places in their migrations (DuBois 1908:110). Another well known story is that of Nahachish, who traveled from Temecula around the perimeter of Palomar Mountain, naming places as he went. These examples illustrate a direct correlation between the oral

Comment Letter T 4, Pechanga Band of Luiseño Indians (cont.)

Letter to Devon Muto
Re: SD GP Update DEIR
Page 3

tradition and the physical place; proving the importance of songs and stories as a valid source of information outside of the published anthropological data.

Rock art is an important element in the determination of Luiseño territorial boundaries. Throughout Luiseño territory, there are certain types of large boulders, taking the shape of mushrooms or waves, which contain numerous small indentations, or cupules. While these types of marking occur throughout the world, we believe that they may represent territorial markers:

When the people scattered from Ekvo Temeko, Temecula, they were very powerful. When they got to a place they would sing a song to make water come there, and would call that place theirs; or they would scoop out a hollow in a rock with their hands to have that for their mark as a claim upon the land. The different parties of people had their own marks. For instance, Albañas's ancestors had theirs, and Lucario's people had theirs, and their own songs of Munival to tell how they traveled from Temecula, of the spots where they stopped and about the different places they claimed (DuBois 1908:158).

Numerous ethnographers make mention of the fact that the Luiseño were highly territorial, and that territories were marked and jealously guarded. Trespassing was cause for conflict and at times outright warfare between groups. The young were taught never to trespass on the land of others in pursuit of game or the gathering of food without permission (Sparkman 1908:190).

T4-9.
cont.

Other types of rock art, pictographs and petroglyphs, have also been documented in Luiseño territory and are integral for territory determination. Typically, it would appear that there is at least one pictograph location per village site.

Most pictographs are located some distance from the village site on isolated boulders or rock outcrops. The remainder are at the village sites or occupation areas and in small cave shelters. The association between pictograph sites and known Luiseño village sites is clearly visible by the manner in which these sites fit the ethnological descriptions (True 1954:68-69).

Regarding the style of the pictographs present throughout Luiseño territory, it is quite distinctive and corresponds ethnographically with what has been written regarding Luiseño puberty ceremonies and Luiseño cosmology:

Such elements as diamonds, chevrons, dots, and simple line forms can be traced in petroglyphs throughout California and the southwest. It is only in the characteristic manner of assembly and the circumstances under which they were made that the pictographs of this area become especially distinctive. The distinctive use of the geometric forms and the almost complete absence of many elements common to other petroglyph areas cause the designs of this region to stand out in a comparative study (True 1954:72).

Comment Letter T 4, Pechanga Band of Luiseño Indians (cont.)

Letter to Devon Muto
Re: SD GP Update DEIR
Page 4

T4-9.
cont.

This style of rock art is termed San Luis Rey Style, and is generally associated with late prehistoric and historic Luiseño populations. The type site that is the major locus of the style is on the San Luis Rey River, in San Diego County (Hedges 1990:81). The Rancho Bernardo Style consists of large-scale geometric, rectangular panels painted in red or in petroglyph form, especially maze-like patterns and sometimes contained in rectangular borders. This style (Hedges 1979) overlaps Northern Diegueño and Luiseño territories with extensions eastward into the Cahuilla area.

Thus, our songs and stories, our indigenous place names, as well as academic works, demonstrate that the Luiseño people who occupied what we know today as North San Diego County, Temecula, and the areas in between, and as such, Pechanga is the appropriate culturally affiliated tribe for projects that impact this geographic area.

T4-10.

In addition, the Pechanga Tribe has a long modern day history of involvement with Projects in San Diego. The Pechanga Tribe has been involved on projects located in the North County vicinity, such as the Hwy 76 Project, the Hidden Meadows Project and the 15 Fwy Project.

T4-11.

The Tribe would welcome to opportunity to meet with the County of San Diego to further explain and provide documentation concerning our specific cultural affiliation to lands within this geographical region.

DRAFT CONSERVATION AND OPEN SPACE ELEMENT GOALS AND POLICIES

T4-12.

The Tribe has previously submitted comments on the Draft Goals and Policies for the General Plan update (various drafts of policies and the NOP) which it wishes to incorporate by reference into these comments. The various iterations of the Goals and Policies which the Tribe has had the opportunity to review are certainly disparate, and it has been an interesting process seeing how they have developed. For the most part, the Tribe agrees with the goals, policies and mitigation measures. However, it is disappointed to note a backward step with respect to what is currently labeled Policy COS-7.3 regarding archaeological collections. In the draft of the General Plan Update published on the web in December of 2008, the policy read:

T4-13.

COS-7.3 Archaeological Collections. Require the appropriate treatment and preservation of archaeological collections in a culturally appropriate manner.

The Tribe understands that such policy language was arrived at based upon the prior comments of the Tribe and does not understand why the language has now been so radically changed as to automatically require curation of all artifacts. The Tribe has previously pointed out on numerous occasions that not all tribes agree with curation of their cultural artifacts. The County should be sensitive to these desires and require that Native American cultural mores and traditions are taken into account when determining the appropriate form of "preservation" of a collection. As such, the Tribe would request that the County revert back to the earlier published language for that policy.

Comment Letter T 4, Pechanga Band of Luiseño Indians (cont.)

Letter to Devon Muto
Re: SD GP Update DEIR
Page 5

T4-14.

The Tribe appreciates the opportunity to comment on the current draft of the Conservation and Open Space Element Goals and Policies, and looks forward to working further with the County to develop appropriate general plan goals and policies which will serve to protect the invaluable Luiseño cultural resources found within San Diego County. If you have any questions, please do not hesitate to contact me at (858) 554-0550, Ext. 1.

Very truly yours,

TOMARAS & OGAS, LLP

A handwritten signature in black ink that reads "Brenda L. Tomaras". The signature is fluid and cursive, with the first name "Brenda" being more prominent than the last name "Tomaras".

Brenda L. Tomaras
Attorneys for the Pechanga Band of Luiseño Indians

cc: Pechanga Cultural Resources Department
Pechanga Office of the General Counsel

Responses to Letter T 4, Pechanga Band of Luiseño Indians

- T4-1 This comment is introductory in nature and does not raise a significant environmental issue for which a response is required.
- T4-2 The County encourages the continued involvement in the preparation process of the General Plan Update. All of these comments and the County's responses will be part of the official record of approval for the project.
- T4-3 The County concurs with this comment, which does not raise any specific issues related to the General Plan Update or DEIR.
- T4-4 The County acknowledges the concern of the Pechanga Tribe for the protection of cultural resources and the proper treatment of cultural items including Native American human remains and sacred items. The County shares these concerns. The comment does not raise any specific issues related to the General Plan Update or DEIR.
- T4-5 The County appreciates the documentation of the extent of Luiseño ancestral territory and acknowledges that Pechanga considers any resources located within this regional area to be Pechanga cultural resources. No changes to the DEIR were made as a result of this comment.
- T4-6 The County appreciates the documentation of the ethnographic details of Pechanga Tribe's knowledge of their ancestral boundaries. No changes to the DEIR were made as a result of this comment.
- T4-7 The County appreciates this information on Luiseño history. No changes to the DEIR were made as a result of this comment.
- T4-8 The County appreciates this information on Luiseño history and territory. No changes to the DEIR were made as a result of this comment.
- T4-9 The County appreciates the documentation of Luiseño and Pechanga Tribal and ethnographic history and reasons for their close ties to the land. No changes to the DEIR were made as a result of this comment.
- T4-10 The County appreciates and acknowledges Pechanga's history of involvement with projects in San Diego County.
- T4-11 The County appreciates Pechanga's willingness to share information about the tribe and will consult with the tribe as cultural resource issues arise in the region described by the commenter.
- T4-12 The County has received and responded to previous comments from the Pechanga Tribe, and all of these have been incorporated into the public record for the General Plan Update.
- T4-13 The County agrees with this comment and has revised Policy COS-7.3 to be in its original form as recommended.

Responses to Letter T 4, Pechanga Band of Luiseño Indians (cont.)

T4-14 The County appreciates the Pechanga Band of Luiseño Indians' willingness to further work with the County on land planning issues.

**Comment Letter T 5, San Luis Rey Band of Luiseño Mission Indians represented
by California Indian Legal Services**

CALIFORNIA INDIAN LEGAL SERVICES

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**EUREKA
ESCONDIDO**

**Michele Fahley, Staff Attorney
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mfahley@calindian.org**

**BISHOP
SACRAMENTO**

August 5, 2009

VIA ELECTRONIC MAIL (gpupdate.DPLU@sdcounty.ca.gov)

Mr. Devon Muto
County of San Diego
Department of Planning and Land Use
5201 Ruffin Road, Suite B
San Diego, CA 92123

**Re: Comments on San Diego County General Plan Update Draft Environmental
Impact Report, Log No. 02-ZA-001; SCH No. 2002111067**

Dear Mr. Muto:

- T5-1. These comments are submitted by California Indian Legal Services on behalf of the San Luis Rey Band of Luiseño Mission Indians ("San Luis Rey Band" or "Tribe"), regarding the above general plan update. The San Luis Rey Band is a San Diego County Tribe whose traditional territory includes the current cities of Oceanside, Carlsbad, Vista, Escondido, Fallbrook and Bonsall, among others. The San Luis Rey Band is concerned about the preservation of cultural, archaeological and historical sites that may be impacted as a result of the general plan update.
- T5-2. The San Luis Rey Band is concerned about the protection of unique and irreplaceable cultural resources and sacred sites which may be damaged or destroyed as a result of the general plan update. The Band is also concerned about the proper and lawful treatment of Native American human remains and sacred items likely to be uncovered in the course of developing projects consistent with the general plan.
- T5-3. The San Luis Rey Band is not opposed to the update generally, but is fervently opposed to changes that may result in damage or destruction to any potentially important cultural or sacred sites and human remains that may be located within the project boundaries. The DEIR includes several mitigation measures designed to reduce potential impacts as a consequence of development.
- T5-4. In addition to the mitigation measures already included in the DEIR, the Band would request revising the DEIR to include under Section 2.5.6.2, the following: "Cul-2.5: Require the presence of a Native American Monitor(s) for all ground disturbing activities, and when feasible, during all initial studies and surveys."

Comment Letter T 5, San Luis Rey Band of Luiseño Mission Indians represented by California Indian Legal Services (cont.)

Comment Letter to Devon Muto
Re: General Plan Update DEIR
August 5, 2009
Page 2

- T5-5. The Band would also request that the following be added to Section 2.5.6.4: Cul-4.2: "At the request of the designated MLD, an agreement shall be entered into between the County and affiliated Tribe relating to the treatment and disposition of human remains, including associated cultural items."
- T5-6. Finally, under the policy section of both 2.5.6.2 and 2.5.6.4, the Band would like the County to add, "Before allowing destructive and invasive testing on human remains and cultural items, the MLD shall be consulted. If feasible, tribal representatives shall be invited to monitor the study of human remains and cultural items curated under this section. Whenever possible, the County agree to discuss with the MLD alternatives to curation, which may include return of cultural resources to the affiliated Tribe."
- T5-7.
- T5-8. We look forward to working with the County to guarantee that the requirements of the CEQA are rigorously applied to this project. We thank you for your continuing assistance in protecting our invaluable Luiseño cultural resources.

Sincerely,

CALIFORNIA INDIAN LEGAL SERVICES



Michele Fahley
Attorneys for the San Luis Rey Band

cc: Melvin Vernon, Tribal Captain
Carmen Mojado, Secretary of Government Relations

**Responses to Letter T 5, San Luis Rey Band of Luiseño Mission Indians
represented by California Indian Legal Services**

- T5-1 This comment is introductory in nature and does not raise a significant environmental issue for which a response is required.
- T5-2 The County acknowledges and appreciates this comment. The County is also concerned about the preservation and sensitive treatment of cultural resources, Native American human remains, burial areas and sacred areas. No revisions were made to the DEIR in response to this comment.
- T5-3 The County acknowledges and appreciates this comment. Please also refer to response to comment T5-2 above.
- T5-4 The County concurs that mitigation requiring the presence of Native American Monitors is important when grading is to occur in the vicinity of archaeological resources and has added the following mitigation measure:
- “Cul-2.5 Protect undiscovered subsurface archaeological resources by requiring grading monitoring by a qualified archaeologist and a Native American monitor for ground disturbing activities in the vicinity of known archaeological resources, and also, when feasible, during initial surveys.”
- In addition, mitigation measure Cul-1.6 (carried over from the previous Section) states: “Implement, and update as necessary, the County’s Guidelines for Determining Significance for Cultural Resources to identify and minimize adverse impacts to historic and archaeological resources.” The Significance Guidelines require the use of Native American monitors for ground-disturbing activities whenever feasible.
- T5-5 The County does not agree that an additional mitigation measure should be added to Section 2.5.6.4. This issue is addressed already under mitigation measure Cul-4.1, which is intended to be general and to require that the County include detailed mitigation procedures for individual projects. Any agreement for the disposition of human remains would be between the landowner and the affiliated Tribe. The County of San Diego Guidelines for Determining Significance, Cultural Resources and CEQA Guidelines 15064.5(d) state that when an initial study identifies the existence, or the probable likelihood, of Native American human remains within the project, a lead agency shall work with the appropriate Native Americans as identified by the Native American Heritage Commission as provided in Public Resources Code Section 5097.98. If human remains are identified, the applicant may enter into an agreement with the tribes for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American burials with the appropriate Native Americans as identified by the Native American Heritage Commission.
- T5-6 The County acknowledges and appreciates this comment, and has revised a policy under Section 2.5.6.4. Policy COS-7.5 of Section 2.5.6.4 refers specifically to human remains and is intended to be a general policy statement that allows the County to require specific mitigation measures for individual development projects. Policy

Responses to Letter T 5, San Luis Rey Band of Luiseño Mission Indians represented by California Indian Legal Services (cont.)

- COS-7.5 has been expanded to state, "the disposition and handling of human remains will be done in consultation with the Most Likely Descendant (MLD) and under the requirements of Federal, State and County Regulations". In Section 2.5.6.2, the County already includes Policy COS-7.3, which addresses appropriate treatment and preservation of archaeological resources.
- T5-7 The County acknowledges and appreciates this comment. County guidelines state that recovered artifacts are required to be curated at a federally approved facility. If human remains or associated grave goods are identified during the course of excavation or grading monitoring, an MLD will be contacted, and may make recommendation to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98 or, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance. Therefore, no revisions were made to the DEIR as a result of this comment.
- T5-8 This comment provides concluding remarks for which a response is not required.

Comment Letter T 6, Sycuan Band of Kumeyaay Nation



Daniel J. Tucker August 25, 2009
Chairman

Ricci LaBrake
Vice Chairman

Candelita Billingsly
Secretary

Cody J. Martinez
Treasurer

Pilar T.A. Pettiford
Council Member

Orlando Sandoval
Council Member

Mr. Devon Muto

Chief, Department of Planning and Land Use
County of San Diego

Department of Planning and Land Use
5201 Ruffin Road, Suite B
San Diego, CA

RE: Comments on the County of San Diego General Plan Update and Draft
Environmental Impact Report.

Dear Mr. Muto:

T6-1.

The Sycuan Band of the Kumeyaay Nation (Sycuan) appreciates the opportunity to provide the following comments on the County of San Diego's Draft General Plan Update (Update), the Subregional Plans and the Draft Environmental Impact Report (DEIR). While the Sycuan Band believes that the concept and goals of the Update and the DEIR are laudable, the documents include some factual errors and incomplete information regarding Sycuan that need to be addressed. The Sycuan Band also believes that it is important that the County understand the Sycuan Band's perspective regarding the Update, a perspective which may be shared by other Tribal governments in the County. In the spirit of intergovernmental cooperation and communication, the Sycuan Band provides the following comments.

T6-2.

1. General Comments

The existing General Plan reflects the County's historic failing to involve the Sycuan Band and other Tribal government in the development of regional land use plans. These baseline land use plans on which the Update is based were prepared at a time when little development had occurred on most Indian Reservations, and the plans generally assumed that development would not occur on Reservation lands or on lands surrounding those Reservations in the future. Based on that erroneous assumption, the General Plan identified areas near or around most Reservations as preserves or low-density areas. This allowed the County to approve developments in other parts of the county, while ignoring the economic development of Tribes and federal laws allowing Tribes to have the United States take lands adjacent lands to their Reservations into trust.

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- T6-3. Because the Update is based on existing regional land use plans that were created by the County with little or no input from Tribal governments and contained these erroneous assumptions, it suffers from the same problems. While economic conditions limited development on Tribal lands for the past 50 years, other areas of the County were developed, and the County improperly relied on Reservation lands and surrounding areas as keys to its Multi Species Conservation Plan (MSCP) preserves and the "Rural Preserve" designations in the Update again based on the assumption that these lands would not be developed. But Tribes now have the ability to develop their Reservations and surrounding lands for needed housing, recreation, or economic purposes. Given this change, it would be wrong for the County to attempt to force Tribes to bear the burden of for the County's approval of other developments in the County by forfeiting development opportunities on their Reservation and surrounding lands.
- T6-4. By seeking to limit development in areas on and near Reservations, the County also has created significant hurdles for Tribal governments seeking to upgrade and integrate their Reservations with existing regional water and sewer systems and other necessary infrastructure. This is another historic artifact of a County planning system that ignored the future needs of Reservations. Now that Tribal governments are able to upgrade or link up with existing infrastructure systems, the County is proposing even stricter limits that could preclude those improvements from being made or force Tribes to become the primary funding mechanism for those upgrades. The Update should acknowledge and eliminate the ongoing effects of that historic legacy.
- T6-5. Many Tribal governments are acquiring or considering acquiring lands adjacent to their Reservations to be brought into trust pursuant to the Indian Reorganization Act. These acquisitions often are completed at great expense to the Tribes. While the County suspiciously views all these acquisitions as somehow being related to a Tribe's effort to expand gaming, Tribes often purchase these lands to regain jurisdiction over lands that historically had been part of Tribal life in some manner. By designating these lands for extremely low-density or no development based on the existing General Plan, the Update continues to ignore this decades-old federal law and other programs intended to improve the economic independence of Tribes and to allow them to expand onto neighboring properties. County plans that depend on those lands remaining undeveloped ignore the right and the need of Tribes as sovereign nations to take control of activities on those lands. If the County's intent is to create a "land use conflict" on which to oppose a fee-to-trust application, that is an improper use of the land planning process and it should be abandoned.
- T6-6. For example, when the Sycuan Band purchases adjacent properties as a sovereign government, the uses of that land that the Tribal government determines are beneficial to the members of the Sycuan Band, and that comply with applicable laws, should not be constrained by policies put in place by the County for other purposes. For example, the Update retains the Specific Plan designation for the former Sloan Canyon mine. But the Sycuan Band never operated the sand mine, and when it closed the operations down, less than 50% of the amount of sand that the Specific Plan allowed to be mined had been removed. That fact alone raises questions about whether the Update's reliance on the Specific Plan as the governing document for future activities in the area is proper.

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T6-7. Finally, the Sycuan Band wishes to raise a general concern with the continued degradation or loss of the historic and cultural resources of Native Americans found in undeveloped areas throughout the County. While the list of "Social Goals" in the Update identifies the protection of cultural resources as a priority, other portions of the Update do not appear to reflect this priority. The Sycuan Band believes that consultation with Tribal authorities regarding the impacts of development on these resources should be conducted routinely as a matter of government-to-government comity. Recently, the County proposed significant trails through lands owned by Sycuan that could have created long-term impacts to cultural and natural resources on those lands without first consulting with the Sycuan Band. Cultural resource considerations should not be an afterthought, and the Update should describe how consideration of cultural resource issues will be integrated into the planning and development processes.

I. Specific Comments on the Draft Revised Crest/Dehesa/Harbison Canyon/Granite Hills Subregional Plan

T6-8. 1. Page 9: *"The Crest/Granite Hills, Dehesa, Harbison Canyon Subregion is located in the southwest quadrant of San Diego County. The area consists of approximately 33 square miles including the communities of Crest, Granite Hills, Dehesa and Harbison Canyon. Included within the area, but autonomous, is the 640 acres Sycuan Indian Reservation."*

Comment: While the Sycuan Reservation established in 1875 is 640 acres, an additional 177.5 acres is held in trust for Sycuan by the United States. Like the Reservation, those trust lands are under the sovereign control of the Sycuan Tribal government. Consequently, the total amount of "autonomous" land is actually 817.5 acres

2. Page 9: *"Dehesa was originally homesteaded in the 1860s and became known for its extensive production of grapes, olives, and fruits. The ridge top community of Crest was developed as a planned cabin subdivision (Suncrest) in the 1920's. Harbison Canyon, located in the upper reaches of Dehesa Valley, was developed as a recreational subdivision in 1926. Granite Hills is almost built out at rural densities and it forms an effective transition between the estate and rural uses in the Subregion and the highly urbanized City of El Cajon."*

T6-9. Comment: The homesteading that occurred in the Dehesa Valley did not represent the first occupation of the valley. The first settlement of this area originally took place thousands of years prior to that date by members of the Kumeyaay Nation. The Sycuan people and their ancestors have lived in the San Diego area for 12,000 years.

The earliest documented inhabitants of what is now San Diego County are known as the San Dieguito Paleo-Indians, and there is evidence of them dating back to about 10,000 B.C. Different groups later evolved as the environment and culture diversified. It is from one of these groups that the Southern Diegueño, the direct ancestors of the Sycuan Band, emerged in about 3000 B.C. Today, Sycuan is one of 13 Kumeyaay Bands in San

Comment Letter T 6, Sycuan Band of Kumeyaay Nation (cont.)

T6-9. cont. Diego County. The 18 Indian tribes in San Diego are more than any other county in the United States.

3. Page 12: *"Downstream, impacts to the water quality of the Sweetwater River could result if liquid waste disposal systems located on the Indian reservation are not carefully monitored."*

T6-10. Comment: The Sycuan Band objects to being singled out as requiring "monitoring" for potential impacts to groundwater use due to "waste disposal systems." Wastewater activities on the Sycuan Reservation as on other reservations are monitored by the United States Environmental Protection Agency. As a sovereign nation, the Sycuan Band is responsible for identifying and taking actions regarding the needs of the Tribe, and it is inappropriate for the County to make comments on these matters, unless it does so for all other independent government entities, whether those entities are Tribal governments or not.

- T6-11. 4. Page 15: *"Sycuan Resort: Public use of golf course (325 acres) and meeting space. Private pool and tennis club."*

Comment: According to our records, the Sycuan Resort is 373 acres.

5. Page 16: *"The company maintains mutual aid agreements with other volunteer units in Dehesa, Jamul, Descanso, Sycuan, etc. The Dehesa Valley Volunteer Fire Station also has an estimated five minute response travel time with full mutual aid back up if needed"*

T6-12. Comment: The reference to the Sycuan Fire Department being a "volunteer" department is incorrect and should be corrected as follows:

The Sycuan Fire Department (SFD) is a full-time, professional, fire department that is staffed 24 hours a day/seven days per week. The SFD has existing automatic aid agreements with the San Diego Rural and the San Miguel Fire Protection District that includes East County Fire. The SFD's engine and truck companies include certified paramedics, and the SFD also provides ALS ambulance service to residents and guests of the Reservation, as well as to the Dehesa Valley and surrounding communities.

II. Comments on the Draft Environmental Impact Report

1. Chapter 1, page 1-56, Table 1-12. *Projects on Tribal Lands in San Diego County.*

T6-13. Comment: It is not clear what source was used to identify the Table 1-12 list of "projects on" the Sycuan Reservation, but none of those projects currently exist (so they are not "on" the Reservation) and none of these projects have been approved by Sycuan for construction. It would be wrong and misleading to identify them as such.

Comment Letter T 6, Sycuan Band of Kumeyaay Nation (cont.)

- T6-14. 2. Chapter 2, Section 2.9 Land Use, page 2.9-5: *"In addition, approximately 600 acres in the southeast portion of the Subregion are under the ownership of the Sycuan Indian Reservation."*
- Comment:** The Sycuan Reservation established in 1875 is 640 acres, and another 177.5 acres are held in trust by the United States, making the total 817.5 acres. In addition, Sycuan also owns an additional 2036.6 acres of fee land that it is seeking to have taken into trust.
- T6-15. 3. Chapter 2, Section 2.11, Noise, page 2.11-26: As shown in Table 2.11-5, *"the short-term community noise survey measured a noise level of 56dBA Leq approximately 60 feet from the centerline of an access road to Sycuan Casino (Dehesa Road)."*
- Comment:** Table 2.11-5 notes a noise level in the "casino" column, but there is no information regarding where these data were collected. While Dehesa Road does provide access to the Sycuan Casino, all traffic on the road is not related to the casino. This is a misleading "statistic."
- T6-16. 4. Chapter 2, Section 2.16 Utilities and Service Systems, page 2.16-15: *"County estimates of tribal groundwater use are based mainly on environmental documents which have been prepared by the tribes for casino projects, and reported average quantities of water that are used for given land uses that are known to exist on each reservation. There are a variety of water uses on Native American reservations including casinos, hotels, residences, restaurants, agricultural irrigation and a golf course on the Barona Indian Reservation. There is also an existing proposal to annex the Sycuan Casino into HWD."*
- Comment:** The reference to a proposal to annex the "Sycuan Casino into HWD" is incorrect. Although the original 640-acre Sycuan Reservation borders the Padre Dam Municipal Water District (PDD) and the Otay Water District (OWD), the Reservation was not included in any water district when those districts were formed, another example of how planners simply ignored Reservation lands. Sycuan is in discussions with the OWD regarding annexation. All other Sycuan trust lands and lands owned by the Sycuan Band in fee are within the boundaries of either the PDD or the OWD.
- T6-17. 5. Chapter 4, Project Alternatives, page 4-4: *"During project planning, some stakeholders expressed the opinion that the General Plan Update should include residential designations to increase housing stock near casinos to provide housing for casino employees . . . [including the] Sycuan Reservation in the Crest/Dehesa Subregional Planning Area (Subregion);"*
- Comment:** The Update has ignored these comments and generally left the existing "Semi-rural residential" or "Rural lands" designations on most land adjacent to the Sycuan Reservation. These designations only allow minimal residential development. However, the Update also proposes to down-zone the former Smith Ranch land (now owned by the Sycuan Band) from "Semi-rural" to "rural." That change would allow far

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- T6-17. cont. fewer houses on the land. There is no reason for this downzoning, and the Sycuan Band opposes that change as unnecessary.
- T6-18. As a general matter, the Sycuan Band supports the concept of affordable housing not just in communities adjacent to Reservations with casino operations, but throughout the County. The County should work cooperatively with other governments to establish affordable housing opportunities in a manner that is sensitive to the character of the County's respective communities and those of neighboring jurisdictions.
- T6-19. Again, the Sycuan Band of the Kumeyaay Nation appreciates the opportunity to comment on these issues. The Sycuan Band looks forward to working with County on land planning in general and on specific projects that directly affect the Sycuan Band.

Sincerely,



Daniel J. Tucker, Chairman
Sycuan Band of the Kumeyaay Nation

cc: Sycuan Tribal Council
Willie Tucker, Sr., Tribal Manager
Adam Day, Assistant Tribal Manager
Sid Morris, Director of Planning and Development

Responses to Letter T 6, Sycuan Band of Kumeyaay Nation

- T6-1 This comment is introductory in nature and does not raise a significant environmental issue for which a response is required.
- T6-2 The County does not agree that Sycuan and other tribal governments were not adequately involved in the development of a General Plan Update land use plan. The General Plan Update planning process involved a broad spectrum of the community through an extensive public outreach program that included hundreds of meetings, mailings, e-mail updates, a hotline, and a website. In 2006 the County notified all tribal representatives regarding the opportunity to consult pursuant to SB18. As a result, meetings were held with six tribes requesting a meeting, including Sycuan. During this process, the County made a conscious decision to focus development in accordance with the Community Development Model (Guiding Principle #2), which meant that rural lands around tribal reservations would remain rural. The County is willing to meet further with the Sycuan Tribe to discuss this further.
- T6-3 The County does not agree previous development or proposed land use plans will force tribal governments to forfeit development opportunities on their reservations and surrounding lands. The County does not have land use authority on tribal reservations and adjacent land taken into trust by the Tribes. In the spirit of continued coordination, the County would welcome an opportunity to discuss long-term development plans on and around the Reservation with Sycuan representatives.
- T6-4 The County acknowledges that early in the General Plan Update planning process a conscious decision was made to focus development in accordance with the Community Development Model and to limit development in areas without sufficient infrastructure. The County does not concur that the General Plan Update forces Tribal governments to bear all the burden of infrastructure improvements. For example, the General Plan Update road network classifies Dehesa Road, a primary access route for the Reservation, as a Major Road. This classification would widen the road from two to four lanes. The improvements necessary to accommodate traffic on this road are primarily a result of existing and forecasted traffic generated by the Sycuan casino and expansion plans on the reservation. However, these improvements would be funded using Transportation Impact Fees (TIF) generated by private (non-tribal) development and any cost-sharing agreements negotiated with the tribal government.
- T6-5 The County does not agree with this comment. The rural designations on lands surrounding the reservation are consistent with the Community Development Model applied to the entire unincorporated area and are not designed to artificially create "land use conflicts" for future fee-to-trust applications. Moreover, the County does not have approval authority for fee-to-trust applications.
- T6-6 The County acknowledges that land taken into trust by tribal governments is not subject to County land use restrictions. The County does not agree that maintaining Specific Plan designations for certain lands is inappropriate. The example in this comment is the Sloan Canyon mine (Conrock/Fenton Specific Planning Area). This

Responses to Letter T 6, Sycuan Band of Kumeyaay Nation (cont.)

- approved Specific Plan was implemented and is still valid; therefore, the County does not propose to modify it. Only those Specific Plans which have gone many years without any progress toward implementation are proposed to be removed under the General Plan Update.
- T6-7 The County disagrees that cultural resource considerations are an afterthought in County planning procedures. General Plan Update Policies COS-7.1 Archaeological Protection, COS-7.2 Open Space Easements, COS-7.4 Consultation with Affected Communities, and COS-7.5 Treatment of Human Remains all require consultation with tribes. In addition, the following measures in the draft Implementation Plan also require consultation with tribes: 5.7.1.E Tribal Monitors, 5.7.1.I Consultation, 5.7.1.K Treatment of Resources, 5.7.1.L Regional Collaboration, and 5.7.1.M Human Remains. Regarding the County trails planning process, trails were proposed for the master plan through a public outreach process. Prior to the actual construction of a proposed trail, the County must have the agreement of the property owner and the consultations referred to above concerning disturbance of resources would occur.
- T6-8 The County appreciates this information. The following has been added to the end of the first paragraph under “Community Background” in the Crest/Dehesa/Harbison Canyon/Granite Hills Subregional Plan:
- “along with 177.5 acres held in trust for Sycuan by the federal government.”
- T6-9 The County appreciates the information provided in this comment. The following has been added to the beginning of the first paragraph in the Community Background section of the Crest/Dehesa/Harbison Canyon/Granite Hills Subregional Plan, under the “History” heading:
- “The earliest documented inhabitants of what is now San Diego County are known as the San Dieguito Paleo-Indians, and there is evidence of them dating back 10,000 B.C. in the Valley. The Sycuan people and their ancestors have lived in the San Diego area for 12,000 years.”
- T6-10 The County concurs with this comment. In the Community Background section of the Crest/Dehesa/Harbison Canyon/Granite Hills Subregional Plan, under the “Existing Land Uses and Community Character” heading under Dehesa, the last sentence in the third paragraph has been deleted pursuant to this comment.
- T6-11 The County appreciates this corrected information. In the Community Background section of the Crest/Dehesa/Harbison Canyon/Granite Hills Subregional Plan, under the “Existing Community Facilities and Infrastructure” heading under Community Facilities in Dehesa, the third bullet has been revised to reflect that the Sycuan Resort Public use of golf course is 373 acres, rather than 325 acres.
- T6-12 The County appreciates this comment. In the Community Background section of the Crest/Dehesa/Harbison Canyon/Granite Hills Subregional Plan, under the “Public Safety” heading under Fire Protection, the text was revised to remove Sycuan from

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the list of volunteer fire stations. In addition, the following has been added to the end of the section as recommended:

"In addition to the San Miguel and the San Diego Rural Fire Protection District, the Sycuan Fire Department (SFD) is a full-time fire department that is staffed 24 hours a day, seven days per week. The SFD has existing automatic aid agreements with the San Diego Rural and the San Miguel Fire Protection District that includes East County Fire."

- T6-13 Table 1-12 in Chapter 1 of the DEIR lists any past, present or probable future projects on the Indian Reservations for which the County has some information. Some projects were identified in either Draft Environmental Impact Statements, newspaper articles, or State compacts. The list of projects is primarily used for traffic forecast modeling and the County generally takes the conservative approach by identifying any known probable projects to ensure that the potential impacts are analyzed. The projects provided in Table 1-12 were included only in the Cumulative Impacts analysis. This list of projects is based on information that was available on or around April 2008, which is the when the Notice of Preparation (NOP) was circulated for public review. This is consistent with Section 15125 of the CEQA Guidelines, which states, "an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the NOP is published." No changes have been made to the DEIR as a result of this comment.
- T6-14 The County appreciates this corrected information. DEIR Section 2.9, Land Use, has been revised to change "600" to "818" acres comprising the Reservation and lands held in trust. In addition, the following sentence was added:
- "Sycuan also owns an additional 2,037 acres of fee land that it is seeking to have taken into trust."
- T6-15 The County acknowledges that the reference to the casino noise source in DEIR Table 2.11-5 could be misleading. As a result, the seventh paragraph, third sentence of DEIR Section 2.11.3.3, Issue 3: Permanent Increase in Ambient Noise Levels Industrial, under the heading "Agricultural, or other Noise-Generating Uses" has been revised by deleting the reference to Table 2.11-5 and adding "however, it is recognized that casino traffic is not the only traffic using this road" at the end of the sentence. In addition, the reference to the casino noise source and noise level has been removed from Table 2.11-5.
- T6-16 The County appreciates this information. The DEIR Section 2.16, Utilities, has been revised to show that Sycuan is in discussions to be annexed into the Otay Water District (OWD), rather than the Helix Water District (HWD). In addition, the following sentence was added:
- "All other Sycuan trust lands and lands owned by the Sycuan Band in fee are within the boundaries of either the PDMWD or the OWD."

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- T6-17 While the County does not know which specific property is being referred to as the Smith Ranch, the lands owned by Sycuan that are proposed for Rural Lands designations were found to have steep slopes, which is why the lower density designations were chosen. The County acknowledges that although some stakeholders expressed their opinion during the planning process that the General Plan Update should include residential densities to increase housing stock near the casinos, the land use alternatives analyzed in the DEIR more closely followed the Community Development Model and generally lowered densities around casinos.
- T6-18 The County appreciates the Sycuan Band of Kumeyaay Nation's support for affordable housing and its desire to work cooperatively to establish affordable housing opportunities.
- T6-19 The County appreciates the Sycuan Band of Kumeyaay Nation's willingness to work with the County on land planning issues.